



**Republic v Kisumu County Government & another; Vincent & 8 others (Exparte Applicants)  
(Judicial Review E003 of 2022) [2023] KEELRC 2228 (KLR) (27 September 2023) (Ruling)**

Neutral citation: [2023] KEELRC 2228 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU  
JUDICIAL REVIEW E003 OF 2022  
S RADIDO, J  
SEPTEMBER 27, 2023**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

**KISUMU COUNTY GOVERNMENT ..... 1<sup>ST</sup> RESPONDENT**

**KISUMU COUNTY SECRETARY ..... 2<sup>ND</sup> RESPONDENT**

**AND**

**ENG ADDA KODERO VINCENT ..... EXPARTE APPLICANT**

**DR. OMINDE ELIZABETH MARY ..... EXPARTE APPLICANT**

**GEORGE ONGAYA OKOTH ..... EXPARTE APPLICANT**

**BARAK OTIENO ..... EXPARTE APPLICANT**

**JENIFFER ATIENO KERE ..... EXPARTE APPLICANT**

**ROSE AUMA KISIA OMONDI ..... EXPARTE APPLICANT**

**JOHNSON OWUOR ..... EXPARTE APPLICANT**

**RHODA ATIENO AHONO OBADHA ..... EXPARTE APPLICANT**

**MICHAEL OWUOR ONYANGO ..... EXPARTE APPLICANT**

**RULING**

1. On October 6, 2022, the Court issued a warrant of arrest against Geoffrey Kigochi, the County Secretary, County Government of Kisumu.



2. However, on October 13, 2022, the Court was informed that the said Geoffrey Kigochi had ceased being the County Secretary and that there was a new County Secretary. The Respondents asked for more time to comply with the decree which had precipitated the issuance of the warrants of arrest.
3. No agreement was reached and on November 21, 2022, the Court issued warrants of arrest against the new County Secretary, Mr John Ochieng Auma, and Mr John Omondi Okongo, the Chief Officer, Finance.
4. On December 19, 2022, the Respondent filed a Motion seeking a stay of execution of the warrants for three months to enable settlement of the decree.
5. The Court dismissed the Motion on February 1, 2023.
6. On June 7, 2023, the Respondents filed another Motion seeking orders:
  - i. ...
  - ii. That pending the hearing and determination of this application, there be stay of execution of orders issued on April 4, 2022 and all warrants of arrest which issued through it until the matter is heard and concluded.
  - iii. That the firm of CO Obiero & Associates Advocates be granted leave vide an order in place of Sala Mudany & Co Advocates for the Respondents.
  - iv. That the Notice of Appointment of Advocate dated May 12, 2023 be deemed as duly filed and served upon payment of requisite fees.
  - v. That after hearing of this application, this Court does consider reviewing/setting aside the warrants of arrest dated February 28, 2023 and February 28, 2023 against George Omondi Okongo and John Ochieng Auma respectively.
  - vi. That the matter be declared as settled.
  - vii. That costs of this suit be provided for.
7. The grounds advanced in support of the Motion were that the decree had been satisfied; warrants had been issued against the Chief Officer Finance whereas he had not been a party to the proceedings and therefore the warrants were issued without hearing him and that John Ochieng Auma was no longer the County Secretary.
8. The Court granted leave to the firm of C Obiero & Associates Advocates to come on record on June 8, 2023.
9. When the application next came up, the Court was informed that the parties were negotiating and the Court gave them time to negotiate. The application was rescheduled to June 22, 2023.
10. On June 22, 2023, the parties requested more time and the Court directed that if no agreement was reached by September 27, 2023, the Court will determine the application.
11. The Court has considered the application, affidavits, and grounds of opposition and can make the following findings.
12. One, on October 15, 2020, the Court ordered the Respondents to pay the ex-parte applicants terminal dues/gratuity. The suit in question was not defended.



13. Two, the Respondents had made payment of terminal dues/gratuity to ex-parte applicants on or around 22 January 2019, 25 January 2019, 17 June 2019, 7 February 2019, and 8 July 2022.
14. Three, on March 22, 2022 after considering a judicial review application, the Court directed the Respondents to pay the ex-parte applicants Kshs 20,338,043/- and Kshs 606,215/-.
15. While addressing the judicial review application, none of the parties disclosed to the Court that some payments had been made to the ex-parte applicants.
16. Four, evidence of payment of terminal dues/gratuity was only brought to the attention of the Court when the Respondents' instant advocates came on record.
17. Five, the ex-parte applicants have not sworn nor filed any affidavits to controvert or deny the depositions by the Respondents that payments of terminal dues/gratuity had been made.
18. Six, it appears that it is probable that the ex-parte applicants may be pursuing double payment from the County Government of Kisumu through the court proceedings. It is not upon the Court to direct the Respondents to audit their books. What is glaring is that the County Government opted not to defend the initial suit.

### **Conclusion and Orders**

19. In light of the foregoing, the Court lifts the warrants of arrest issued on October 6, 2022 and February 1, 2023.
20. Each party to bear own costs of the application.

**DELIVERED VIRTUALLY, DATED, AND SIGNED IN KISUMU ON THIS 27TH DAY OF SEPTEMBER 2023.**

**RADIDO STEPHEN, MCI Arb**

**JUDGE**

**Appearances**

**For ex-parte applicants Bruce Odeny & Co. Advocates**

**For Respondents C. Obiero & Associates Advocates**

**Court Assistant Chrispo Aura**

