



**Republic v County Executive Committee Member, Finance, Migori County Government
& 2 others; Kenya County Government Workers Union (Exparte) (Miscellaneous
Civil Application 6 of 2018) [2022] KEELRC 102 (KLR) (15 June 2022) (Ruling)**

Neutral citation: [2022] KEELRC 102 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU
MISCELLANEOUS CIVIL APPLICATION 6 OF 2018**

**S RADIDO, J
JUNE 15, 2022**

BETWEEN

REPUBLIC APPLICANT

AND

**COUNTY EXECUTIVE COMMITTEE MEMBER, FINANCE, MIGORI COUNTY
GOVERNMENT 1ST RESPONDENT**

**CHIEF FINANCE OFFICER, MIGORI COUNTY GOVERNMENT 2ND
RESPONDENT**

GOVERNOR, MIGORI COUNTY GOVERNMENT 3RD RESPONDENT

AND

KENYA COUNTY GOVERNMENT WORKERS UNION EXPARTE

RULING

1. On 16 March 2022, the Court found merit in a Notice to Show Cause seeking an order that the Chief Officer, Finance, County of Migori be arrested and committed to civil jail for failure to comply with an order of the Court issued on 11 March 2021.
2. The Court directed the Chief Officer, Finance, to appear in Court on 23 March 2022 for mitigation and sentencing.
3. However, on 22 March 2022, the Chief Officer, Finance filed a Motion under a certificate of urgency seeking orders:
 - (1) ...



- (2) That an order do issue suspending, lifting and or staying execution of warrant of arrest issued against the 2nd Respondent/applicant on 16th March 2022 pending the hearing and determination of the application.
 - (3) That an order do issue suspending, lifting and or staying execution of warrant of arrest issued against the 2nd Respondent/applicant on 16th March 2022.
 - (4) That costs of the application be provided for.
4. The Court directed that the Motion be served ahead of the giving of directions on 23 March 2022.
 5. When the parties appeared in Court, the Respondents advocate informed the Court that the person who had been occupying the office of Chief Officer, Finance had been redeployed and a new officer appointed. Counsel indicated that the Respondents were intent on complying with the orders of 11 March 2021.
 6. The Court directed the parties to attempt a compromise to the application and the file was placed aside.
 7. Later in the morning, the advocates informed the Court that they had reached a consensus that Kshs 35,000,000/- be paid within a defined timeframe.
 8. The Court heard brief oral addresses from the parties and directed that the first instalment of Kshs 35,000,000/- be paid on or before 12 May 2022. The Court stayed the warrants.
 9. When the Motion was placed before the Court on 12 May 2022, it turned out that the Respondents had not complied with the consent they had reached with the applicant Union. The Respondents offered the Chief Officer, Finance for examination under oath on why there had been no compliance.
 10. Despite the applicant Union having not filed a formal response to the Motion by the Respondents, the Respondents offered the Chief Officer for questioning, and she was questioned by the parties.
 11. The Chief Officer, Finance explained that the Respondents had not complied because the County Assembly had rejected the 2 supplementary budgets which had been placed before it for approval.
 12. The Chief Officer, Finance further explained that the monies would be budgeted for in the 2022/2023 financial year.
 13. The Court had stayed the warrants of arrest issued on 16 March 2022 on the condition that the Respondents make certain payments. The payments have not been made.
 14. In the circumstances, the Court vacates the order staying the arrest of the Chief Officer, Finance, Migori, pending the merit hearing of the Respondents' Motion filed in Court on 22 March 2022.
 15. Costs in the cause.

DELIVERED THROUGH MICROSOFT TEAMS, DATED AND SIGNED IN KISUMU ON THIS 15TH DAY OF JUNE 2022.

RADIDO STEPHEN, MCIARB

JUDGE

Appearances

For applicant Otieno, Yogo, Ojuro & Co. Advocates

For Respondents Ngeri, Omiti & Bush Advocates, LLP



Court Assistant Chrispo Aura

