



REPUBLIC OF KENYA



**Nandwa v Attorney General & another (Judicial Review Application E160 of 2024)
[2025] KEHC 3617 (KLR) (Judicial Review) (25 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3617 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
JUDICIAL REVIEW
JUDICIAL REVIEW APPLICATION E160 OF 2024
RE ABURILI, J
MARCH 25, 2025**

BETWEEN

FANICE MANG'ULA NANDWA APPLICANT

AND

THE ATTORNEY GENERAL 1ST RESPONDENT

MERCY MUTHONI THIGO 2ND RESPONDENT

RULING

1. The application before this court is the Chamber Summons dated 3rd April 2024 seeking leave to file for Judicial Review orders of mandamus to compel the Respondents to pay the applicant, the sum of Kshs.1,082,478.00/- due and owing as a decretal sum and costs of the suit as of March 2024 on account of a judgment entered on 1st September 2017 in CMCC No. 396 of 2013 together with further interest now accruing on the judgment debt.
2. The application is supported by a statutory statement dated 3rd April 2024 and an affidavit verifying the facts sworn on even date by the Applicant.
3. The Respondents were served with a mention notice as directed by the court on 13th November 2024 but did not attend court when the matter was mentioned by this court on 24th March 2025 and a ruling date set for the application for leave.
4. The Applicant in her affidavit deposes that she was involved in a Road Traffic accident involving Motor Vehicle Registration No. GKA 608R driven by the 2nd respondent herein upon which she filed CMCC No.396 of 2013 for damages following the injuries that she sustained.
5. That the 1st Respondent, Attorney General entered an appearance and defended the suit against the Applicant and on 1st September 2017, Judgment was entered for the Applicant in the sum of



- Kshs.450,000/- pain and suffering, Kshs.102,000/- special damages, plus costs of the suit and interest at court rates.
6. That a certificate of order for costs against the Government was issued on 9th August 2021 and served on 20th July 2022 upon the Attorney General.
 7. That since then, the decree has not been settled and no stay or appeal is pending and that despite several demands made as per the annexed correspondence, no settlement of decree is forthcoming.
 8. The Applicant has annexed copies of demand letter, judgment, decree, and certificate of order against the Government.
 9. I have perused the application for leave to apply for Judicial Review orders of mandamus and compel settlement of the decree in CMCC No.396 of 2013, the demand letter, Judgment, decree and certificate of order against the Government and the evidence of service of the said documents upon the Attorney General on 20th July 2022. There is no denial that the Judgment and decree in issue has not been settled and neither has it been appealed against or even stayed or set aside.
 10. There is evidence of demand for settlement from 2019 to date but no response has been forthcoming from the Respondent.
 11. Mandamus is the sole legal remedy for enforcing the settlement of decrees against the Government, and without its issuance, the judgment and decree granted in favor of the Applicant would remain ineffective, reducing the Applicant to a powerless participant in the judicial process
 12. Section 21(4) of the Government Proceedings Act prohibits execution against the Government and therefore the only avenue available is *vide* mandamus which order can only issue with leave obtained from court to apply for performance of a public duty to remedy the defects of justice for the ends of justice to be done, where there is such failure to perform a public duty and, in this case, to satisfy decree issued by the court in favour of the Applicant.
 13. Since the Applicant has no alternative remedy to enforce her lawfully obtained judgment, I am persuaded that she merits the court's leave to seek a writ of mandamus, as the issued decree remains valid.
 14. In light of the above I allow the application dated 3rd April 2024 and filed in court on 9th April 2024.
 15. I grant leave to the Applicant herein to apply for Judicial Review orders of mandamus against the 1st Respondent and the application for mandamus shall be filed enjoining the relevant Government Ministry's Department's accounting officer to compel settlement of judgment, decree and certificate of order for costs against the Government in CMCC No. 396 of 2013.
 16. The substantive Notice of Motion to be filed and served within the next twenty-one (21) days of the date hereof.
 17. Costs of this application shall be in the main Motion once filed.
 18. The substantive motion to be filed in a separate file.
 19. This file is closed.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 25TH DAY OF MARCH, 2025

R. E. ABURILI

JUDGE

