



Republic v County Government of Kisumu; Agidho (Ex parte Applicant) (Judicial Review Application E004 of 2024) [2025] KEHC 10896 (KLR) (26 June 2025) (Judgment)

Neutral citation: [2025] KEHC 10896 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
JUDICIAL REVIEW APPLICATION E004 OF 2024**

JM OMIDO, J

JUNE 26, 2025

BETWEEN

REPUBLIC APPLICANT

AND

THE COUNTY GOVERNMENT OF KISUMU RESPONDENT

AND

GEORGE AGIDHO EX PARTE APPLICANT

JUDGMENT

1. The instant judicial review proceedings were commenced vide the chamber summons application dated 22nd July, 2024, through which the ex parte Applicant sought for leave to file an application seeking for the judicial review order of mandamus against the Respondent.
2. On 30th July, 2024, this court (Hon. Lady Justice Kamau) granted the requisite leave to the ex parte Applicant to file a substantive motion seeking for an order in the nature of mandamus against the Respondents.
3. The ex parte Applicant filed the substantive motion dated 5th August, 2024 on 7th August, 2024, seeking the following prayers:
 - a. The Honourable Court be pleased to issue an order of mandamus directed at the Chief Finance Officer of the County Government of Kisumu compelling him/her to pay the decretal amount together with costs and interest arising in Kisumu Chief Magistrate’s Court Civil Case No. 543 of 2019.
 - b. The costs of the application be awarded to the ex parte Applicant.
4. The grounds upon which the application is premised are set out on its face and are as follows:



- a. The Chief Finance Officer of the Respondent has failed to perform his/her duties by failing to pay the ex parte Applicant the decretal sum shown in the certificate of judgement and order of costs as awarded in Kisumu Chief Magistrate’s Court Civil Case No. 543 of 2019 without giving any reason for so doing.
 - b. Despite issuance and service of the judgement, decree and certificate of order of judgement and costs against the County Government of Kisumu, the said decree still remains unsettled to-date, despite the same having been served on him (sic).
 - c. The Respondent’s action of failing to honour the decree now amounts to contempt and an abuse of the court process.
 - d. The Respondent has demonstrated that should he not be compelled to settle the decree, the same shall remain so.
 - e. Leave to commence judicial proceedings (sic) was granted to the ex parte Applicant on 30th July, 2024.
5. The application is supported by the ex parte Applicant’s affidavit sworn on 22nd July, 2024. In his affidavit, the deponent expounds on the above grounds.
 6. On 14th October, 2024, this court (Hon. Shariff, J.) directed the Respondent to file a response to the motion within 10 days and the parties were given timelines for filing their submissions. The ex parte Applicant complied with the directions of the court. It is instructive from the record that the Respondent did not file the documents that the court directed.
 7. In precis, the ex parte Applicant states on oath in his affidavit that he instituted civil proceedings against the Respondent in Kisumu Chief Magistrate’s Court Civil Case No. 543 of 2019 and judgement in the matter was subsequently entered in his favour and against the Respondent for a total of Ksh.1,225,086/-, together with costs and interest, on 16th February, 2023.
 8. The ex parte Applicant further states that the costs of the proceedings before the lower court were subsequently assessed at Ksh.152,080/- and a certificate of order of judgement and costs against the Respondent issued.
 9. The ex parte Applicant has attached a copy of the judgement, ruling on costs, certificate of order of judgement and costs against the Respondent and the affidavit proving the service of all the documents upon the Respondent, to his supporting affidavit as annexures “GA-1”, “GA-2”, “GA-3” and “GA-4” respectively.
 10. That despite the above, the Respondent has failed to satisfy the decree in the lower court matter, necessitating the instant judicial review proceedings.
 11. I have considered the ex parte Applicant’s application, the affidavit in support thereof, the submissions and the record. I am satisfied that the decree issued against the Respondent in Kisumu Chief Magistrate’s Court Civil Case No. 543 of 2019 remains unsatisfied, despite the Respondent having been served with the certificate of order of judgement and costs against the Respondent issued under Section 21(1) and (2) as read with Section 21(5) of the *Government Proceedings Act*, Cap 40 of the Laws of Kenya.
 12. The foregoing being the position, it is my persuasion that the ex parte Applicant’s application is merited. To that end, I proceed to allow the motion dated 23rd January, 2025, with costs, and enter judgement in favour of the ex parte Applicant in the following terms:



- a. An order of mandamus is hereby issued compelling the Finance Officer of the County Government of Kisumu to satisfy the money decree that was issued in Kisumu Chief Magistrate's Court Civil Case No. 543 of 2019, by forthwith paying to the ex parte Applicant the amount totaling Ksh.1,837,471.90/- (being the decretal sum together with costs and interest), together with the costs of the instant judicial review proceedings, assessed at Ksh.8,000/- and further interest, as may accrue.
 - b. The order of mandamus issued in (a) above shall take effect upon expiry of seven days after service of the judgement and orders issued herein.
13. This file is hereby marked as closed.
 14. Orders accordingly.

DELIVERED (VIRTUALLY), DATED & SIGNED THIS 26TH DAY OF JUNE, 2025.

JOE M. OMIDO

JUDGE

For Ex Parte Applicant: Ms. Oyala for Ms. G.S. Okoth.

For Respondent: No appearance.

Court Assistants: Mr. Ngoge & Mr. Juma.

