



**Republic v Baringo County Government & 2 others; KTK Advocates
 (Ex parte Applicant) (Judicial Review Application 687 of 2017)
 [2025] KEHC 9263 (KLR) (Judicial Review) (25 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 9263 (KLR)

**REPUBLIC OF KENYA
 IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
 JUDICIAL REVIEW**

JUDICIAL REVIEW APPLICATION 687 OF 2017

RE ABURILI, J

JUNE 25, 2025

BETWEEN

REPUBLIC APPLICANT

AND

BARINGO COUNTY GOVERNMENT 1ST RESPONDENT

COUNTY SECRETARY, BARINGO COUNTY 2ND RESPONDENT

CHIEF OFFICER, FINANCE COUNTY TREASURER, BARINGO

COUNTY 3RD RESPONDENT

AND

KTK ADVOCATES EX PARTE APPLICANT

RULING

1. This ruling determines the Exparte Applicant’s chamber Summons dated 5th July 2024 seeking that this Court takes accounts pursuant to the order made by Ngaah J in a Judgment rendered on 28.1.2022 wherein an order of mandamus was issued compelling the respondents to settle decree on costs as taxed by the Deputy Registrar of the Court on 8.6.2017, subject to parties taking accounts and agreeing on the outstanding balance.
2. The Exparte Applicant claims that out of the taxed sum which was upheld on a reference vide ruling dated 2.11.2017, at Kshs 17,570,907.08, the respondent only paid him Kshs 12,500,000 and that interest continues to accrue at the rate of 14% per annum such that even with the payment of the 12,500,000 which is acknowledged, the a balance inclusive of interest as at the time that the applicant filed this application was Kshs 31,467,132.42; and that despite the applicant preparing and



submitting to the respondent with his statement of account showing the balance, the respondent had not responded to the same hence the filing of the application.

3. The application was initially heard without any response from the respondent who nonetheless filed an application seeking to stay the ruling and to be allowed to file the response, which application was argued interpartes and the court in its ruling of 1st April 2025, this court allowed the respondent leave to file its response out of time. The parties then orally argued the application for taking of accounts.
4. In the replying affidavit filed by the respondent the County Government of Baringo, it is contended that the respondents had paid the ex parte applicant a total of Kshs 22,500,000 inclusive of interest as tabulated in the affidavit sworn by Jacob Kurui Chepkwony, the County Secretary of the Respondent County Government and that the balance is Kshs 2,396,321.
5. In a rejoinder, the applicant filed a further affidavit dismissing the tabulation and stating that of the alleged payments, Kshs 4 million was paid prior to the taxation while the alleged payment vouchers annexed are not evidence of payment made to the applicant.
6. I have considered the application for taking of accounts which was the condition precedent given by the Judge in the mandamus judgment, before the applicant can enforce mandamus order.
7. I have considered the depositions and the documents filed by each party.
8. It is important to note that applications of this nature are special although none of the parties referred to the actual statutory or legal framework for taking of accounts. The procedure involved was not mentioned by any of the parties and it appeared as if each one of them expected the Judge to calculate the figures given to the court by each party and add or subtract and give the final figure on what is the balance. That is far from the legal position.
9. It is not in dispute that the Applicant has since received Kshs. 12,500,000 from the Respondent towards settlement of the decretal amount. However, there remains a dispute as to the balance outstanding, which the parties have been unable to conclusively agree upon.
10. Order 21 Rule 17 of the Civil Procedure Rules is on Special directions as to accounts and provides that:

The court may, either by the decree directing an account to be taken or by any subsequent order, give special directions with regard to the mode in which the account is to be taken or vouched, and in particular may direct that in taking the account the books of account in which the accounts in question have been kept shall be taken as prima facie evidence of the truth of the matter therein contained with liberty to the parties interested to take such objection thereto as they may be advised.
11. The Ex parte Applicant now seeks orders for the taking of accounts and to determine the exact balance still owing under the decree, considering the partial payment already made.
12. This Court observes that the decree in this matter is for a specific monetary sum, being costs were taxed and certified by the Court. However, due to the partial payment and ensuing disagreement as to the amount remaining, a taking of accounts is warranted to ascertain the precise sum still due to the decree-holder.
13. This Court is empowered under the above Order 21 Rule 17 of the Civil procedure Rules to direct the Deputy Registrar to take accounts where necessary to give effect to a monetary decree, particularly where payments have been made over time and no formal reconciliation has taken place.



14. Therefore, having considered the facts, the record, and the applicable law, this Court is satisfied that the taking of accounts is necessary to resolve the issue of the outstanding balance. This process will ensure clarity, transparency and finality to the enforcement of the decree for mandamus.
15. Accordingly, the Court makes the following orders:
- a. The Deputy Registrar of this Court is hereby directed to take accounts for the purpose of determining the balance of the decretal amount remaining unpaid by the Respondent to the Exparte Applicant, under the certificate of costs dated 8th June 2017, which amounts to Kshs. 17,570,907.08, taking into account the interest accrued, the amount already settled as shall be determined based on the evidence that the parties will supply to the Deputy Registrar.
 - b. In taking the accounts, the Deputy Registrar shall:
 - i. Consider and record all payments made by the Respondent to the Applicant, including the acknowledged payment of Kshs. 12,500,000;
 - ii. Invite and receive supporting documentation from both parties, including but not limited to payment vouchers, bank statements, and any written acknowledgments;
 - iii. Afford both parties an opportunity to be heard; and
 - iv. Prepare and file a report with the Court on the findings.
 - c. The parties shall appear before the Deputy Registrar for directions on the mode and timeline for the accounting exercise.
 - d. Either party shall be at liberty to raise objections to the Deputy Registrar's report within fourteen (14) days of its filing into this Court.
 - e. Notice to appear for directions before the Deputy Registrar for taking of accounts to issue in the format attached to this Judgment, to be extracted and served upon the parties for compliance
 - f. Each party shall bear their own costs of the application, noting that the exercise of taking of accounts was ordered by the Court in the mandamus judgment.
 - g. It is so ordered.

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

R.E. ABURILI

JUDGE

