



Republic v County Executive Member for Finance & Economic Planning County Government of Kirinyaga & another; Gichangi (Ex parte Applicant) (Judicial Review Application E005 of 2023) [2025] KEHC 12396 (KLR) (3 September 2025) (Judgment)

Neutral citation: [2025] KEHC 12396 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERUGOYA
JUDICIAL REVIEW APPLICATION E005 OF 2023
EM MURIITHI, J
SEPTEMBER 3, 2025**

BETWEEN

REPUBLIC APPLICANT

AND

**COUNTY EXECUTIVE MEMBER FOR FINANCE & ECONOMIC PLANNING
COUNTY GOVERNMENT OF KIRINYAGA 1ST RESPONDENT
CHIEF OFFICER, FINANCE & ECONOMIC PLANNING COUNTY
GOVERNMENT OF KIRINYAGA 2ND RESPONDENT**

AND

PAUL WARUI GICHANGI EX PARTE APPLICANT

JUDGMENT

1. The applicant filed the notice of motion dated 15th August, 2024 seeking the following orders:
 1. That the Applicant be granted an order of mandamus to compel the County Executive Member for Finance & Economic Planning, County Government of Kirinyaga Madam Jacqueline Njogu and the Chief Officer, Finance & Economic Planning, County Government of Kirinyaga Mr. Charles Calirus Otieno to satisfy the judgment in Baricho PMCC No. 64 of 2019 of Kshs. 2,715,422/= together with costs and interest.
 2. That the costs of this application be provided for.
2. The application is based on the grounds on the face of the application and the Supporting Affidavit of Paul Warui Gichangi. The applicant's case is that he filed civil suit No. 64 of 2019 at Baricho Law Court seeking for general and special damages arising from the death of my wife Rose Wamuyu Muriithi (deceased) after she was ran over by a County grader registration No. GKA 745M on 17/3/2017. The



judgment was ultimately entered in his favour on 10th February, 2023 for Kshs. 2,715, 422/= together with costs and interest. The costs of my suit were assessed at Kshs. 218,615/=.

3. Moreover, he avers that the judgment sum has accrued interest at court rate of 14% since 10th February 2023 amounting to Kshs. 570, 237/= bringing the total sum due and payable to Kshs. 3,504,274/=.
4. Lastly, the above judgment sum remains due and payable as the county has failed to pay hence writ of mandamus should issue.
5. The applicant filed a Supplementary Affidavit replying that upon delivery of the judgment, his advocate on record wrote to the respondent demanding payment of the decretal amount. The respondent declined to pay and was issued with a decree and Certificate of Execution against the Government to proceed with execution.

Issue

6. Whether a writ of mandamus against the respondents should issue.

Analysis

7. The Applicant seek to be granted an order of mandamus to compel the County Government of Kirinyaga to satisfy the judgment in Baricho PMCC No. 64 of 2019 of Kshs. 2,715,422/= together with costs and interest.
8. The Applicant's case is simply that respondents have failed to satisfy the judgment and decree of the trial Court and the applicant was issued with a Certificate of Execution against the Government to proceed with execution. The Respondents have refused, failed and/or neglected to settle the amount in entirety.
9. The Court of Appeal discussed the nature and scope of the remedy of mandamus at length in its decision in Republic vs Kenya National Examinations Council *ex parte* Gathenji and Others, Civil Appeal No 234 of 1996 as follows:

“The order of mandamus is of a most extensive remedial nature, and is, in form, a command issuing from the High Court of Justice, directed to any person, corporation or inferior tribunal, requiring him or them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. Its purpose is to remedy the defects of justice and accordingly it will issue, to the end that justice may be done, in all cases where there is a specific legal right and no specific legal remedy for enforcing that right; and it may issue in cases where, although there is an alternative legal remedy, yet that mode of redress is less convenient, beneficial and effectual.”
10. Execution proceedings against a government or public authority can only be as against the accounting officer or chief officer of the said government or authority, who is under a statutory duty to satisfy a judgment made by the Court against that body.
11. Section 44 of the County Government Act establishes the office of the County Secretary who is secretary to the County Executive Committee, and is answerable for the operations of the County Executive, and whose functions include being head of the county public service.



12. I should respectfully agree with the Court (C. W. Githua, J.) in *Republic v Permanent Secretary, Ministry of State for Provincial Administration and Internal Security Ex parte Fredrick Manoah Egunza* [2012] eKLR it was held as follows:

“Unlike in other civil proceedings, where decrees for the payment of money or costs had been issued against the Government in favour of a litigant, the said decree can only be enforced by way of an order of mandamus compelling the accounting officer in the relevant ministry to pay the decretal amount as the Government is protected and given immunity from execution and attachment of its property/goods under Section 21(4) of the *Government Proceedings Act*. The only requirement which serves as a condition precedent to the satisfaction or enforcement of decrees for money issued against the Government is found in Section 21(1) and (2) of the *Government Proceedings Act* (hereinafter referred to as the Act) which provides that payment will be based on a certificate of costs obtained by the successful litigant from the court issuing the decree which should be served on the Hon Attorney General. The certificate of order against the Government should be issued by the court after expiration of 21 days after entry of judgment. Once the certificate of order against the Government is served on the Hon Attorney General, Section 21(3) imposes a statutory duty on the accounting officer concerned to pay the sums specified in the said order to the person entitled or to his advocate together with any interest lawfully accruing thereon. This provision does not condition payment to budgetary allocation and parliamentary approval of Government expenditure in the financial year subsequent to which Government liability accrues.”

13. The Applicant deponed that he had made demands for payment of the costs, and also in this respect brought evidence of the decrees and costs awarded in his favour arising from claims against the Respondent.
14. Thus, the applicant had a legitimate expectation that the Respondents would settle the claim as set out in the Certificate of Order against the Government which the Respondents have failed to do without any explanation or justification.
15. The order for Mandamus is justified in the circumstances of this case.

Orders

16. Accordingly, for the reasons set out above, the Court finds merit in the application dated 15/8/2024 for judicial review order of Mandamus, and it is granted as prayed.
17. The Respondent shall pay the costs of the application to the Applicant.

Order accordingly.

DATED AND DELIVERED THIS 3RD DAY OF SEPTEMBER 2025.

EDWARD M. MURIITHI

JUDGE

Appearances:

Ms. Naliaka for Mr. Kiama the Applicant.

N/A for the Respondent.

