



**Republic v County Secretary for Taita Taveta County Government
& another; Thuku (Exparte Applicant) (Judicial Review Application
E001 of 2023) [2024] KEHC 2001 (KLR) (29 February 2024) (Ruling)**

Neutral citation: [2024] KEHC 2001 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VOI
JUDICIAL REVIEW APPLICATION E001 OF 2023
GMA DULU, J
FEBRUARY 29, 2024**

**IN THE MATTER OF APPLICATION BY ERIC MWAURA THUKU FOR JUDICIAL
REVIEW ORDERS OF MANDAMUS AGAINST COUNTY SECRETARY AND THE
COUNTY CHIEF OFFICER FOR FINANCE TAITA TAVETA COUNTY GOVERNMENT
AND IN THE MATTER OF SECTION 44(3) OF COUNTY GOVERNMENT ACT 2012 AND
IN THE MATTER OF ORDERS 22 RULE 31 AND 32 OF CIVIL PROCEDURE RULES**

BETWEEN

REPUBLIC APPLICANT

AND

**COUNTY SECRETARY FOR TAITA TAVETA COUNTY
GOVERNMENT 1ST RESPONDENT**

**COUNTY CHIEF OFFICER FOR FINANCE TAITA TAVETA
COUNTY 2ND RESPONDENT**

AND

ERIC MWAURA THUKU EXPARTE APPLICANT

RULING

1. This is a Judicial Review by way of Notice of Motion filed under Section 44(3) of the [County Government Act](#) 2012 and Rules 22, 31 and 32 of the [Civil Procedure Rules](#).
2. The orders sought in the application are as follows:-
 1. That an order of Mandamus do hereby issue directed to the respondents herein and compelling the respondents to pay the ex-parte applicant herein the sum of Kshs. 2,126,191.36 together



with costs and interest accrued to Kshs. 1,786,000/= from the date of decree on 3rd October 2017 to date being the decree arising from SPMCC No. 52 of 2014 Voi Eric Mwaura Thuku v Taita Taveta County Government.

2. That an order do issue to the respondents to show cause against detention in prison.
3. That the court be pleased to grant such or further orders it deems fit to grant in the interest of justice.
4. That the costs of the application be awarded to the applicant herein.
3. The application has grounds on the face of the Notice of Motion that in SPMCC No. 52 of 2014 judgment was delivered on 3rd October 2017 for Kshs. 2,126,191.36 which had now accrued interest in the sum of Kshs. 1,786,000/=as at the date of filing the application. It is also a ground that the respondents were represented by Mokaya Ogutu & Company Advocates who had been duly served.
4. After service of the application on 6th July 2023 Mr. Odunga holding brief for Mr. Bwire appeared in court for respondents directions, but thereafter no response was filed by the respondents nor did their advocate show up again in court.
5. The application therefore stands as unopposed, as though the applicant's counsel Mwinzi & Associates filed written submissions, the respondent's counsel did not file any submissions.
6. Having considered the application, documents filed and the submissions of counsel for the applicant, and since the respondents having been served have not raised any issue or contest, I find that this court has no choice but to grant the orders sought, in order to enforce the judgment already issued by the trial court.
7. I thus allow the application and order as follows:-
 - a. An order of Mandamus be and is hereby issued directed at the 1st and 2nd respondents herein and compelling them to pay the ex-parte applicant herein the sum of Kshs. 1,126,191.36 together with costs and interest accrued to Kshs. 1,786,000/= from the date of decree on 3rd October 2017 to date being the decree arising from SPMCC No. 52 of 2014 Voi, Eric Mwaura Thuku =Versus= Taita Taveta County Government, and in default a notice to show cause for detention in prison to issue.
 - b. The applicant is hereby awarded the costs of the application.

DATED, SIGNED AND DELIVERED THIS 29TH DAY OF FEBRUARY 2024 AT VOI IN OPEN COURT VIRTUALLY.

GEORGE DULU

JUDGE

In the presence of:-

Alfred – Court Assistant

Mr. Mwinzi for applicant

