



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

JUDICIAL REVIEW DIVISION

JR CASE NO. 286 OF 2014

REPUBLIC.....APPLICANT

VERSUS

ATTORNEY GENERAL.....1ST RESPONDENT

INSPECTOR GENERAL OF THE KENYA

POLICE STATION.....2ND RESPONDENT

EX-PARTE

KAPA OIL REFINERIES LIMITED

JUDGEMENT

1. The Applicant, KAPA Oil Refineries Limited is the decree holder in **Nairobi High Court Civil Case No. 1737 of 1999, KAPA Oil Refineries v Attorney General**. The Applicant avers that the said decree has not been discharged by the respondents.

2. Through these judicial review proceedings, and in particular the Notice of Motion application dated 11th August, 2014, the Applicant prays for an order compelling the Attorney General (the 1st Respondent) and the Inspector General of Police (the 2nd Respondent) to pay the Applicant the sum of Kshs.1,003,214.75 being the amount reflected in the decree issued on 22nd March, 2005 in the said suit. The Applicant also pray for costs.

3. A perusal of the papers filed in Court reveals that the Applicant herein had in **Nairobi HCCC No. 1737 of 1999** sued the 1st Respondent herein on behalf of the Commissioner of Police for damages as a result of losses suffered following a collision between the Applicant's motor vehicle registration number KAE 250N and the Commissioner of Police's motor vehicle registration number GK P950 (KAA 104U) on 4th September, 1998. The 2nd Respondent herein is the successor of the Commissioner of Police.

4. It is the Applicant's case that, the result of the said suit is the decree dated 22nd March, 2005 which shows that a judgment was delivered on 5th October, 2004 in which the Applicant was awarded Kshs. 622,479.20. Together with interest, the decretal amount was Kshs.1,003,214.75 on 22nd March, 2005.

5. It is the Applicant's case that despite demand, the respondents have failed, neglected or refused to settle the decretal amount hence the necessity of these proceedings.
6. Although the respondents were served and counsel from the office of the Attorney General attended court, no formal or oral opposition was made against the Applicant's case.
7. An order of mandamus issues to compel a public authority or public officer to perform a duty imposed on that authority or officer by statute. The order will issue where despite demand for performance of the statutory duty, the authority or officer has failed, refused or neglected to perform the duty - see **Shah v Attorney General (No. 3) Kampala HCMC No. 31 of 1969.[1970] EA 543.**
8. Upon perusal of the papers filed in court by the Applicant, I find that it has satisfied the grounds for grant of an order of mandamus. An order of mandamus will therefore issue as prayed in the Notice of Motion application dated 11th August, 2014. The Applicant will also have the costs of these proceedings.

Dated, signed and delivered at Nairobi this 23rd day of Dec., 2015

W. KORIR,

JUDGE OF THE HIGH COURT



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