



Case Number:	Judicial Review Case 286 of 2014
Date Delivered:	23 Dec 2015
Case Class:	Civil
Court:	High Court at Nairobi (Milimani Law Courts)
Case Action:	Judgment
Judge:	Weldon Kipyegon Korir
Citation:	Republic v Attorney General & another ex-parte Kapa Oil Refineries Limited [2015] eKLR
Advocates:	-
Case Summary:	-
Court Division:	Judicial Review
History Magistrates:	-
County:	Nairobi
Docket Number:	-
History Docket Number:	-
Case Outcome:	-
History County:	-
Representation By Advocates:	-
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-

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**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.....1<sup>ST</sup> RESPONDENT**

**INSPECTOR GENERAL OF THE KENYA**

**POLICE STATION.....2<sup>ND</sup> 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 11<sup>th</sup> August, 2014, the Applicant prays for an order compelling the Attorney General (the 1<sup>st</sup> Respondent) and the Inspector General of Police (the 2<sup>nd</sup> Respondent) to pay the Applicant the sum of Kshs.1,003,214.75 being the amount reflected in the decree issued on 22<sup>nd</sup> 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 1<sup>st</sup> 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 4<sup>th</sup> September, 1998. The 2<sup>nd</sup> 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 22<sup>nd</sup> March, 2005 which shows that a judgment was delivered on 5<sup>th</sup> 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 22<sup>nd</sup> 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 11<sup>th</sup> August, 2014. The Applicant will also have the costs of these proceedings.

Dated, signed and delivered at Nairobi this 23<sup>rd</sup> day of Dec., 2015

**W. KORIR,**

**JUDGE OF THE HIGH COURT**



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