



REPUBLIC OF KENYA



**Ukokhe v Attorney-General & another (Cause 688 of 2011)  
[2024] KEIC 1 (KLR) (7 February 2024) (Ruling)**

Neutral citation: [2024] KEIC 1 (KLR)

**REPUBLIC OF KENYA  
IN THE INDUSTRIAL COURT AT NAIROBI  
CAUSE 688 OF 2011  
J RIKA, J  
FEBRUARY 7, 2024**

**BETWEEN**

**EDWARD NDOMBI UKOKHE ..... CLAIMANT**

**AND**

**ATTORNEY-GENERAL ..... 1<sup>ST</sup> RESPONDENT**

**PERMANENT SECRETARY MINISTRY OF MEDICAL SERVICES .... 2<sup>ND</sup>  
RESPONDENT**

**RULING**

1. The Claimant/Decree-holder, seeks orders in his Application, dated 5<sup>th</sup> February 2024, filed under Certificate of Urgency, that: -
  - a. The Application is certified urgent, and heard *ex parte*, in the first instance.
  - b. Warrants of arrest to issue against the Cabinet Secretary, Ministry of Health, to show cause why Judgment [on record] delivered on 15<sup>th</sup> January 2018, and notified on 4<sup>th</sup> September 2021, in the sum of Kshs. 162,500 should not be paid to the Decree-Holder.
  - c. The Cabinet Secretary Ministry of Health is committed to civil jail, until the decretal sum is paid in full.
  - d. Costs be provided for.
2. The Application is founded on the Affidavit of the Claimant sworn on 5<sup>th</sup> February 2024. It is also supported by the Certificate of Urgency signed on 5<sup>th</sup> February 2024, by Learned Counsel for the Claimant, Tom Wachakana.
3. The Claimant explains that he extracted Decree and served the same upon the Respondents. He availed a copy of the Judgment to the Respondents. He served upon the Respondents, Certificate of Order



against the Government, issued under Order 29 Rule 3 of the Civil Procedure Rules. There was no compliance on the part of the Respondents.

The Court Finds: -

- a. Judgment on record indicates that the Cause was filed, and Judgment issued, under the Industrial Court of Kenya, not the Employment and Labour Relations Court, as indicated in the Application.
- b. The Court is very doubtful that a Cabinet Secretary can be arrested and committed to civil jail, for failure by the Government, to satisfy a Decree issued by the Court.
- c. The Court is not aware of judicial precedent, and the Claimant has cited none, where a Cabinet Secretary in Kenya or in the Commonwealth, was arrested and committed to civil jail, to enforce payment of a civil debt owed by the Government.
- d. The Claimant has not cited the relevant provisions in the Government Proceedings Act, enabling the Court to commit Cabinet Secretaries to civil jail, to satisfy Decrees issued against the Government.
- e. It is not clear why the Claimant seeks execution against the Cabinet Secretary, while he names the Permanent Secretary alongside the Attorney-General, as the Respondents, in his Claim.
- f. The Court is not able to grant ex parte orders as prayed. The Claimant needs to serve his Application on the Respondents, and return to Court to persuade the Court, to arrest and jail the Cabinet Secretary, after hearing all the Parties.

It is ordered: -

- a. The Application shall be served upon the Respondents.
- b. Hearing date suitable to the Court, and all the Parties, to be assigned at the Registry, after the Respondents have put in their responses.

**DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY, AT NAIROBI, UNDER PRACTICE DIRECTION 6[2] OF THE ELECTRONIC CASE MANAGEMENT PRACTICE DIRECTIONS, 2020, THIS 7<sup>TH</sup> DAY OF FEBRUARY 2024.**

**James Rika**

**Judge**

