



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAKURU**

**JUDICIAL REVIEW MISC. CIVIL APP. NO.10 OF 2015**

**IN THE MATTER OF LAW REFORM ACT CAP 26 LAWS OF KENYA**

**-AND-**

**IN THE MATTER OF THE CIVIL PROCEDURE ACT CAP 21 LAWS OF KENYA AND THE RULES**

**-AND-**

**IN THE MATTER OF THE COMPANIES ACT CAP 486 LAWS OF KENYA**

**-AND-**

**IN THE MATTER OF AN APPLICATION FOR LEAVE TO BRING JUDICIAL REVIEW PROCEEDINGS OF PROHIBITION AND MANDAMUS**

**-BETWEEN-**

**REPUBLIC.....APPLICANT**

**-VERSUS-**

**REGISTRAR OF COMPANIES.....RESPONDENT**

**CHARLES OLARE CHEBET )**

**RICHARD KIPKOECH BUNDOTIC).....EXPARTE APPLICANTS**

**-BETWEEN-**

**KIPKOECH CHEBET CHERUTICH**

**KIPKUTOL KORIR**

**SIMON KIPCHUMBA KANDIE**

**PHILIP SIRMA CHEPTUMO**

**JACKTON TUITOEK**

**KIPKULEI CHELELGO**

**KIPROTICH CHEPKOTEI .....INTERESTED PARTIES**

**JAMES TOMNO**

**KIPTINGILEN KIBERENGE**

**CHERUTICH CHEROP (CHELITWA)**

**GRACE CHELANGAT**

**VERONICA MANGARA**

**RULING**

Record show that the exparte applicant filed application for leave to institute Judicial Review proceedings on 31<sup>st</sup> March, 2015. Leave of 21 days was granted on 9<sup>th</sup> April, 2015. The court also granted an order that leave granted do operate as stay.

On 30<sup>th</sup> January, 2018 the firm of Olonyi took a date for the substantive application dated 21<sup>st</sup> April, 2015 for hearing on 19<sup>th</sup> February, 2018. On 19<sup>th</sup> February, 2018 Mr. Olonyi informed court that he did not serve the other parties due to want of instruction. Application to cease acting was filed by the firm of Olonyi on 5<sup>th</sup> March, 2018.

In respect of the substantive application, no action was taken between 24<sup>th</sup> April, 2015 when it was filed, up to 30<sup>th</sup> January, 2018 when a date was taken. The counsel for the applicant also failed to take a date for application filed on 5<sup>th</sup> March, 2018.

Counsel in court today has indicated that no instructions were flowing from client to the advocate thus the delay. There is no explanation for their failure as well to prosecute their application to cease acting.

My view is that cases belong to litigants and they have a duty to follow up with their advocates to know their position, and ensure that they are prosecuted. No explanation has been given as to why the exparte applicant has not taken steps to ensure this matter is prosecuted since 2015. Matters cannot remain pending in court indefinitely without sufficient reason. Litigation should come to an end.

From the foregoing, I find that no explanation has been given for delay in prosecuting this matter. I proceed to dismiss it for want of prosecution. Costs to the respondent and interested parties.

**Ruling dated, signed and delivered at Nakuru this 27<sup>th</sup> day of June 2019.**

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**RACHEL NGETICH**

**JUDGE**