



Cocopan Construction Kenya Limited v Public Procurement Regulatory Board's Department Committee & 2 others; Judiciary (Interested Party) (Judicial Review Miscellaneous Application E063 of 2025) [2025] KEHC 8203 (KLR) (Judicial Review) (12 June 2025) (Ruling)

Neutral citation: [2025] KEHC 8203 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
JUDICIAL REVIEW
JUDICIAL REVIEW MISCELLANEOUS APPLICATION E063 OF 2025
RE ABURILI, J
JUNE 12, 2025

BETWEEN

COCOPAN CONSTRUCTION KENYA LIMITED APPLICANT

AND

**PUBLIC PROCUREMENT REGULATORY BOARD'S DEPARTMENT
COMMITTEE 1ST RESPONDENT**

PUBLIC PROCUREMENT REGULATORY BOARD 2ND RESPONDENT

PUBLIC PROCUREMENT REGULATORY AUTHORITY 3RD RESPONDENT

AND

THE JUDICIARY INTERESTED PARTY

RULING

1. I have considered the chamber summons dated 10th June 2025 and filed in court on 11/6/2025 under certificate of urgency. I am unable to find the urgency, owing to the fact that the impugned decision was rendered on 29/5/2025 and the applicant, knowing that these proceedings are time bound, waited until the 13th day to file the challenge.
2. Expedition is key in matters public procurement matters. A party who comes to court at the 11th hour should not expect to get orders in their favour. I decline to certify the matters as urgent.
3. I however find that upon perusal of the chamber summons, statutory statement, verifying affidavit as well the annexures thereto, I am satisfied that the applicant has an arguable prima facie case for consideration on its merit. In other words, the application is not frivolous on the face of it.



4. The applicant seeks leave of court to file judicial review application seeking for certiorari to quash the 1st Respondent's decision rendered on 29th May 2025 debaring the applicant from undertaking procurement services for a period of three (3) years of the date of the decision.
5. It also prays for leave to apply for prohibition to prohibit the Respondents and especially the 3rd Respondent from implementing the decision of the 1st Respondent Debarment committee of the 2nd and 3rd Respondent's made on 29/5/2025 by publishing and forwarding to the Cabinet Secretary the details of the exparte applicant and the corresponding period of debarment for gazettelement.
6. The applicant also prays that the leave so granted do operate as stay of implementation of the said decision.
7. From the grounds in support and the sworn affidavit of Martin Gitonga Mbae, I am satisfied that the threshold for leave has been met.
8. I grant leave to the applicant to apply in terms of prayers 2 and 3 of the chamber summons dated 10/6/2025. Notice of motion shall be filed and served within 24 hours from the time the Ruling/Order herein is communicated to the exparte applicant herein via phone and email by the Registry.
9. On whether the leave so granted should operate as stay of implementation of the impugned decision made on 29/5/2025, I note that the debarment decision takes a process including gazettelement of the said debarment which involves resources by the Government and that these proceedings, if successful, will be rendered academic unless stay is granted.
10. Accordingly, I order that the leave so granted herein shall operate as stay of implementation of the decision of the Debarment Committee rendered on 29/5/2025 in respect of tender No. JUD/OT/031/2023/2024 until these proceedings are heard and determined fully on merit.
11. Owing to the statutory timelines for disposal of these public procurement proceedings which is 45 days from the date of filing, I order that upon service of the Notice of Motion upon the Respondents and Interested Parties, the Respondents and Interested Parties shall have 48 hours within which to file and serve their responses to the Notice of Motion which should be filed in a separate and fresh Judicial Review Application file.
12. The parties will then appear in court virtually on 17/6/2025 for inter partes directions on the mode of disposal of the substantive motion and in the said motion file.
13. Each party to bear their own costs of these proceedings.
14. This file is therefore closed.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 12TH DAY OF JUNE, 2025

R.E. ABURILI

JUDGE

