



Derdols Tech Services Ltd t/a Maxxis Nanyuki Energy & another v Energy and Petroleum Regulatory Authority (Judicial Review E035 of 2024) [2024] KEHC 8080 (KLR) (Judicial Review) (5 July 2024) (Ruling)

Neutral citation: [2024] KEHC 8080 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
JUDICIAL REVIEW
JUDICIAL REVIEW E035 OF 2024**

JM CHIGITI, J

JULY 5, 2024

BETWEEN

DERDOLS TECH SERVICES LTD T/A MAXXIS NANYUKI ENERGY 1ST APPLICANT

DERDOLS PETROLEUM LIMITED T/A MAXXIS NANYUKI ENERGY 2ND APPLICANT

AND

THE ENERGY AND PETROLEUM REGULATORY AUTHORITY RESPONDENT

RULING

1. On 16th February 2024, the Ex-parte applicant was granted leave to file the substantive suit within 14 days and also serve the other parties.
2. As at 24th June 2024 when the matter came up for mention for directions, the Ex-parte Applicants had not complied with the said orders.
3. The ex parte applicant was not in court to explain the reason for non-compliance when the matter was called out.
4. The Substantive suit having not been filed within time then there is no suit before the court.
5. Order 53 rule 3 of the *Civil Procedure Rules* 2010 provides that when leave has been granted to apply for an order of mandamus, prohibition or certiorari, the application shall be made within twenty-one days by notice of motion to the High Court, and there shall, unless the judge granting leave has otherwise



directed, be at least eight clear days between the service of the notice of motion and the day named therein for the hearing.

6. The Ex-parte Applicants have never also attended court to explain the delay in filing the substantive suit and as such they may have lost interest in pursuing the suit.
7. The applicant has not filed an application for the enlargement of time to file the substantive suit.

Disposition;

8. It is this court's finding and I so hold that the suit has abated by dint of Order 53 rule 3 of the *Civil Procedure Rules* 2010.

Order;

This suit is dismissed with costs.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 5TH DAY OF JULY 2024.

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J. CHIGITI (SC)

JUDGE

