



Republic v Development & 2 others (Miscellaneous Civil Application 29 of 2023) [2023] KEHC 18991 (KLR) (20 June 2023) (Ruling)

Neutral citation: [2023] KEHC 18991 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CIVIL APPLICATION 29 OF 2023**

**RE ABURILI, J
JUNE 20, 2023**

BETWEEN

REPUBLIC APPLICANT

AND

CABINET SECRETARY, MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT 1ST RESPONDENT

MEHTA GROUP MANAGEMENT LIMITED 2ND RESPONDENT

AGRO-CHEMICAL AND FOOD COMPANY LIMITED 3RD RESPONDENT

RULING

1. This matter was filed on May 26, 2023. The application is an ex parte one seeking leave to file Judicial Review proceedings. The court had the option and discretion of granting leave ex parte but it directed service upon the other parties for inter partes directions.
2. Upon the respondents receiving the application, it turned out that a similar pleading and proceeding is pending before the Judicial Review Division in Nairobi HC JR No. E079 OF 2022 hence the court directed that the Judicial Review matter in Nairobi be placed before this court and be served upon the Applicant for him to decide whether he wishes to proceed with this matter.
3. The applicant has been served and applies to withdraw the application dated May 26, 2023 on account of the pendency of a similar matter before the High Court in Nairobi.
4. Accordingly, I hereby allow the oral application to withdraw the application dated May 26, 2023 and order that the said application is marked as wholly withdrawn.
5. On whether I should award costs to the Respondents who have filed Replying affidavits, I decline on account that this was an ex parte application and the Applicant having filed the application in the public interest, he was not in any way to benefit as an individual.



6. Accordingly, the application dated May 26, 2023 is hereby marked as wholly withdrawn with each party to bear their own costs and this file is closed.
7. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 20TH DAY OF JUNE, 2023

R. E. ABURILI

JUDGE

