



Republic v Public Procurement Administrative Review Board; Gardens & Wedding Centre Limited (Interested Party); Accounting Officer, the Rift Valley Provincial General Hospital & another (Exparte Applicants) (Judicial Review 4 of 2020) [2023] KEHC 22306 (KLR) (18 September 2023) (Ruling)

Neutral citation: [2023] KEHC 22306 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
JUDICIAL REVIEW 4 OF 2020
HM NYAGA, J
SEPTEMBER 18, 2023**

BETWEEN

REPUBLIC APPLICANT

AND

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD RESPONDENT

AND

GARDENS & WEDDING CENTRE LIMITED INTERESTED PARTY

AND

ACCOUNTING OFFICER, THE RIFT VALLEY PROVINCIAL GENERAL HOSPITAL EXPARTE APPLICANT

COUNTY GOVERNMENT OF NAKURU, THE RIFT VALLEY PROVINCIAL GENERAL HOSPITAL EXPARTE APPLICANT

RULING

1. Before me is an Application dated June 16, 2022 which seeks the following prayers;
 1. Spent.
 2. That this suit be dismissed forthwith.
 3. That the costs of the application be provided for.



2. The application is based on the grounds set out on its face and is supported by the Affidavit of Daniel Gathogo Mugo.
3. In a nutshell, the applicant states that Section 175 (3) of the *Public Procurement and Asset Disposal Act* (the Act) provides that Judicial Review Applications made by the High Court against a decision of the Public Procurement Administrative Review Board should be determined within 45 days from the date of filing such application. That the exparte applicants, on February 13, 2020, filed the present suit but have since failed, neglected and/or otherwise failed to take any steps to prosecute the same for a period of 27 months. That any decision made by the court on the said application outside the statutory timelines will be a nullity.
4. The Application was served on the other parties but no responses were filed.
5. From the court record, it is clear that on 2February 5, 2020, the exparte applicant appeared before my elder brother Justice J. Ngugi (as he then was). The Judge granted prayer 2 of the Application dated February 12, 2020, which gave the Applicant 21 days to file a substantive application for Judicial Review.
6. No substantive application has even been filed or served. For non-compliance with the orders of the court, there is no substantive application to deal with. The one on record was dealt with and disposed of when leave was granted. That application was spent. The mentions that took place were, in my view, to confirm the filing of the substantive application, which never materialised.
7. Accordingly, it was not necessary to file the present application. It would have only sufficed if a substantive application had been filed, or if there were stay orders. There are none.
8. Consequently, this application is disallowed with no orders as to costs.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 18TH DAY OF SEPTEMBER, 2023.

HESTON M. NYAGA

JUDGE

In the presence of;

C/A Jeniffer

Mr. Sang for Kiprono for Applicant

N/A for Respondent

