



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL SUIT NO. 207 OF 2013

KENYA INDEPENDENT PETROLEUM

DISTRIBUTORS ASSOCIATION LIMITED.....PLAINTIFF

-VERSUS-

NAIROBI CITY COUNTY.....DEFENDANT

RULING

1. A notice to show cause was issued against the parties pursuant to Order 17, Rule 2 of the Civil Procedure Rules on 5th February, 2019 in view of the fact that the suit was last in court on 14th November, 2017.
2. When *Mr. Ongoto* counsel for the Plaintiff appeared before this court on 25th March, 2019, he sought for and was granted leave to file an affidavit in response to the aforesaid notice to show cause. The matter was subsequently scheduled for mention on 4th April, 2019. However, on the scheduled date, neither of the parties was present in court nor was a replying affidavit filed as requested.
3. I have perused the file and noted that this is the second time a notice to show cause has been issued in this matter; the first notice was issued on 10th October, 2017. At the time, *Ms. Kabathu* holding brief for *Mr. Ongoto* advocate for the Plaintiff communicated *Mr. Ongoto's* interest in prosecuting the matter, stating that the delay was occasioned by the fact that he had lost touch with his client.
4. This court subsequently ordered the Plaintiff to file and serve upon the defendant its witness statements, following which the case would be mentioned on 14th November, 2017 to confirm compliance.
5. On 14th November, 2017, *Mr. Ongoto* sought more time to comply and was granted a further mention on 7th December, 2017. However, there is no record of what transpired on the said date.
6. Needless to say, no action has been taken in the matter since then and with no explanation. As earlier shown, the plaintiff was granted the opportunity of explaining the delay in the prosecution of its case but has not done so to date.
7. The essence of a notice to show cause is for the relevant party, usually the Plaintiff, to give sufficient cause as to why his or her suit should not be dismissed for want of prosecution. In this instance, no reason whatsoever has been given notwithstanding the fact that this is the second time a notice of such nature has been issued.
8. From the circumstances, it is reasonable to conclude that the Plaintiff is least interested in prosecuting its case and I find no reason to keep the same pending in court.
9. The upshot is that the suit is hereby dismissed with costs to the defendant.

Dated, signed and delivered at NAIROBI this 20TH day of JUNE, 2019

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L. NJUGUNA

JUDGE

In the presence of:

..... for the Plaintiff

..... for the Defendant