

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL SUIT NO. 450 OF 2014

OLYMPIC PETROLEUM LIMITED.....PLAINTIFF

VERSUS

AHMED IBRAIM.....DEFENDANT

RULING

This matter was listed for notice to show cause why it should not be dismissed for want of prosecution on the 21st June, 2019 when counsel for the Plaintiff sought leave to file an affidavit in response thereto.

The court has considered the averments contained in the affidavit sworn by Josephine Kyalo on 4th day of July, 2019. Therein, the deponent who is the Advocate on record for the Plaintiff avers that, the reason for the delay was due to the disappearance of the defendant and a pending criminal case being criminal case number 1794/2014 which is related to this matter and in which the Plaintiff herein is the accused person.

She avers that, the Defendant has now been traced and she is now ready and willing to have the matter prosecuted expeditiously. She has urged the court not to dismiss the matter but to give the Plaintiff a chance to be heard on merits.

The court has perused the record and notes that the matter was filed way back in the year 2014 and since then, nothing much has been done by the Plaintiff to prosecute the matter. The record also shows that interlocutory judgment was entered against the Defendant on the 24th February, 2015 and thereafter no action was taken until the matter was first listed for notice to show cause on the 29th June, 2018.

In my considered view, no good reason has been given by the Plaintiff why the suit has dragged in court for the last five years. However, in the interest of justice, the court will **spare the suit and since it's an old matter it is hereby ordered that the same be prosecuted within 120 days from today failing which it shall stand dismissed.**

Dated, Signed and Delivered at Nairobi this 25th Day of JULY, 2019.

.....

L. NJUGUNA

JUDGE

In the Presence of

.....***For the Applicant***

.....***For the Respondent***