

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

CIVIL SUIT NO.590 OF 2014

BETHLEHEM ENGINEERING &

CONSTRUCTION CO. LIMITED (IN RECEIVERSHIP).....PLAINTIFF

VERSUS

MARA MINING COMPANY LIMITED.....DEFENDANT

RULING

This matter came up for a Notice to show cause. The Plaintiff opposed the dismissal of the suit through its Replying Affidavit dated **3rd March 2015** the Defendant supported the dismissal of the suit.

I note that on **27th November 2016** **Hon Justice Farah Amin** delivered a Ruling giving certain directions in the matter. From that time no action was taken on the file.

The Defendant has submitted that the suit ought to be struck out **“in limine”** as no summons were ever served upon them. However I note that notwithstanding the failure to serve summons the Defendant has actively participated in all proceedings in this suit proving that they were fully aware of and had notice of the suit against them.

It would appear that the suit is ripe for hearing. Accordingly I direct that the same be set down for hearing within 90 days hereof failing which it will stand dismissed with no further reference to the Plaintiff. In order to expedite the matter parties to appear before the Hon Deputy Registrar for Case Management Conference on **9/9/2019**.

Dated in **Nairobi** this ...**26TH**day of **August 2019**.

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Justice Maureen A. Odero

Mr. Mutua h/b for Mr. Koyoo

Ms Agwala h/b Mr. Issa for Defendant

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Justice Maureen A. Odero