

-REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

MISC. CIVIL CASE NO. 18 OF 2019

AMBALE ELIZABETH AMISIAPPLICANT

VERSUS

SIAYA DISTRICT HOSPITAL

DR. ALLAN.....RESPONDENT

RULING

1. I have perused the application dated 19.9.2019 under certificate of urgency. I certify it as urgent.
2. The application seeks for reinstatement of the application dated 29.7.2019. I certify it as urgent.
3. On the merits thereof, I have considered the affidavit sworn by Kenneth O. Mumbo on 19.9.2019. It has taken counsel over one month to file the application for reinstatement of the dismissed application. There is delay which is not explained.
4. However, justice can still be done to the party to proceedings even where counsel appears to be indolent as it is not a party's mistake that the application was dismissed for non-attendance. I exercise discretion and set aside the orders dismissing the application dated 29.7.2019 and reinstate it for disposal on merit. As the application is exparte, the same shall be heard on 5.11.2019.
5. Orders accordingly

Dated at Siaya this 24th day of October, 2019

R.E. ABURILI

JUDGE