

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISII

CIVIL APPEAL NO. 21 OF 2017

BETWEEN

ROBINA KEMUNTO MOSOTI.....APPELLANT

AND

NYAMACHE TEA FACTORY.....1ST RESPONDENT

ITUMBE TEA FACTORY.....2ND RESPONDENT

(An Appeal arising from the Ruling and Order dated 8.3.2017 in

Ogembo SRMCC NO. 72 of 2011 by Hon. Naomi Wairimu PM)

JUDGMENT

This is an appeal from the ruling and order of the trial court dismissing the appellant's Notice of Motion dated 8th March 2017 seeking to reinstate a suit that had been dismissed for non-attendance of both parties on 30th November 2016.

Both parties agree that the trial magistrate improperly exercised her discretion. I therefore allow the appeal. I order the suit re-instated. As both parties are to blame for what happened, I make no order as to costs.

D.S MAJANJA , J

18/6/2018

Court: Judgment read and delivered in open court.

D.S MAJANJA, J

18/6/2018