

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CIVIL DIVISION

HIGH COURT CIVIL APPEAL NO. 487 OF 2014

CHARLES ANYANGA.....APPLICANT

VERSUS

SECURITY 7.....RESPONDENT

RULING

1. The application dated 14th December, 2017 seeks orders that the appeal herein be dismissed for want of prosecution.
2. The Application is predicated on the grounds stated therein and is supported by the affidavit sworn by counsel for the Applicant. It is stated that it is three (3) years since the filing of the appeal. That the Record of Appeal is yet to be filed and matter listed for directions. That the Respondent is not interested in prosecuting this appeal even though the proceedings have been typed and the Applicant even obtained a copy of the same on 7th November, 2017.
3. The application is opposed. It is stated in the replying affidavit that the delay has been occasioned by the failure to be supplied with the proceedings and judgment of the Lower Court. It is further stated that the application is an abuse of the court process.
4. The application was canvassed by way of written submissions which I have considered.
5. The appeal was filed on 5th November, 2014. The delay in compiling and filing the record of appeal is inordinate. However, the delay has been explained. The Respondent has exhibited two letters through which he requested for proceedings in year 2014 and once in year 2016. This court is therefore inclined to give the appeal a chance to be heard on merits.
6. With the foregoing, I dismiss the application on condition that the record of appeal be filed served and appeal listed for directions within 90 days from date hereof. In default the appeal to stand dismissed. Costs in cause.

Date, signed and delivered at Nairobi this 26th day of July, 2018

B. THURANIRA JADEN

JUDGE