

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL SUIT NO. 257 OF 2012

NATIONAL SOCIAL SECURITY FUND.....PLAINTIFF

VERSUS

ERICK K. MUSAU.....DEFENDANT

RULING

The matter herein was filed in the year 2012 and on 6th March 2017, the plaintiff amended its plaint. Due to the slow pace in which the matter was being prosecuted, the court on its own motion served the parties herein with a notice to show cause why it should not be dismissed for want of prosecution. It came up for the hearing of the said notice on 13th April 2018 when the court was informed that parties were negotiating the matter out of court and they sought for a mention date.

The matter was mentioned on 4th June 2018 but on the said date, the court was informed that parties had not reached any settlement. The court stood over the matter to 6th July 2018 for Notice to Show Cause, when Counsel for the plaintiff, sought leave of the court to file an affidavit in response to the notice to show cause, which he filed on 19th July 2018.

The court has perused the said affidavit and the reasons given for the delay in prosecuting the matter are that; parties were initially negotiating the matter out of court but the negotiations did not bear any fruits, that several applications have been filed in the matter which have come up for hearing on various dates, that the last time the matter was in court, was on 30th March, 2017 when the Deputy Registrar ordered the parties to comply with Order 11 of the Civil Procedure Rules. After that, no action was taken by either party for a period of a year and that explains why it was listed for notice to show cause.

I have considered the affidavit filed in response to the notice to show cause. It has set out, at length, what has been happening in the matter until 30th March 2018 when it was last in court. The court has noted that by that date, no action had been taken for slightly over a year though previously the file was active. Counsel for the plaintiff has indicated that his client is still interested in pursuing the matter. Parties were ordered to comply with order 11 but they are yet to.

In the interest of justice, this court will not dismiss the mater but since it is an old one, it is hereby ordered that it be prosecuted within six months from the date of this ruling failing which, it shall stand dismissed.

Dated, Signed and Delivered at Nairobi this 27th day of **September, 2018**

.....

L. NJUGUNA

JUDGE

In the presence of:

..... **For the Plaintiff**

..... **For the Defendant**