

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CIVIL APPEAL CASE NO.455 OF 2009

HIGHWAY DYNAMICS LTDAPPELLANT

VERSUS

RUMWE FARMERS CO-OP SOCIETY LTD.....RESPONDENT

RULING

This appeal arises from the decision of Mochache D.(Mrs) Chairman of Business Premises Rent Tribunal at Nairobi delivered on 31st July 2009 in Tribunal Case No. 486 of 2007 Nairobi. On 18th June 2015, the appeal was dismissed by Honourable Olga Sewe J for want of prosecution on the court's own motion. The appellant now seeks to reinstate the dismissed appeal, by an application dated 13th January 2015 and filed on the same day. The application for reinstatement of the dismissed appeal, regrettably, is coming at a time when the High court has been divested of any jurisdiction to hear and determine appeals emanating from the Business Premises Rent Tribunal.

On 15th December 2015, after this appeal had been dismissed on 18th June 2015, Parliament enacted the Statute Law Miscellaneous Amendment Act No. 25 of 2015 which came into effect the same day of 15th December 2015. The said Act amended Section 15 and 16(2) of the Landlord and Tenant (Shops, Hotels and Catering Establishment) Act Cap 301 of Laws of Kenya, which Sections provided for appeals from Business Premises Rent Tribunal to lie to the High Court, to the effect that such appeals would now lie to the Environment and Land Court.

With the Parliament having divested this court of any jurisdiction to hear and determine any appeals from Business Premises Rent Tribunal, and as application has come after such amendments to Cap 301 had taken effect, I find that I have no jurisdiction to hear and determine this application for reinstatement of the appeal and direct that the file be placed before the Environment and Land Court which has competent jurisdiction to hear and determine the matter before hand and the appeal subject matter. Accordingly, I down my tools and say no more thing. The matter shall be mentioned on 17th May 2016 before Environment and Land Court Nairobi for further directions/orders as the court may deem fit to make.

Dated, signed and pronounced in open court at Nairobi this 14th day of April 2016.

R.E. ABURILI

JUDGE