



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI COMMERCIAL & ADMIRALTY DIVISION
CIVIL CASE NO. 1878 OF 2001

JEDIDAH NGINA KIBUNA :::PLAINTIFF/APPLICANT

-VERSUS-

CITY COUNCIL OF NAIROBI :::1ST DEFENDANT/RESPONDENT

ABRHAM MWANGI NJIHIA :::2ND DEFENDANT/RESPONDENT

THE CHIEF LAND REGISTRAR :::3RD DEFENDANT/RESPONDENT

ABRHAM MWANGI NJIHIA :::2ND DEFENDANT/RESPONDENT

R U L I N G

1. The application before the court is dated **25th November 2014** by the Plaintiff. It seeks the orders that this court extends the summons to enter appearance.
2. The application is premised on the grounds that the Plaintiff/Applicant instituted a suit against the 1st, 2nd and 3rd Defendants/Respondents and later made an application to enjoin the 4th and 5th Defendants/Respondents which prayers were granted by this court. However the Plaintiff/Applicant was unable to trace the said Defendants and therefore made an application to serve them through substituted service in the local dailies which prayer was also granted, but due to the lack of funds to publish the said advertisements, the matter was dismissed but the Plaintiff/Applicant made an application for reinstatement which application was allowed. The Plaintiff/Applicant wrote a letter dated 8th October 2014 addressed to the Deputy Registrar of the Commercial and Admiralty divisions requesting him to issue summons to be served to the 4th and 5th Defendant/Respondents through substituted service. The Deputy Registrar informed the Applicant that he was required to make an application for extension of the summons that had been previously issued, hence this application.
3. The application is supported by affidavit of **Jedidah Ngina Kibuna** sworn on **21st November 2014**, which mainly expounds upon the above grounds.
4. The application is opposed by the 1st Defendant on the grounds that the application is incompetent *ab initio*; that it is frivolous, vexatious and an abuse of the court process; that the application has demonstrated no prima facie case and that the application is unmerited.
5. I have carefully considered the application. On 2nd February 2012 the Plaintiff's suit was dismissed for want of prosecution. The Plaintiff later on vide a Notice of Motion dated 2nd May

- 2014 sought to reinstate the same. The application was allowed vide the Ruling dated 26th day of September 2014 and the Plaintiff was given 30 days to commence activity on the matter.
6. From the Plaintiff's affidavit she wrote a letter dated 8th October 2014 to the Deputy Registrar of this court requesting for issuance of summons to the 4th and 5th Defendants. The Deputy Registrar informed her that she was required to make an application for extension of the summons that had been previously issued. This is that application.
 7. Having on 26th September 2014 allowed the suit to be heard on its merit, and having seen the Plaintiff taking positive action towards the hearing of the matter, I am satisfied that this application is merited. therefore I make the following orders:-
 - a. ***The summons to enter appearance herein be and are hereby extend by a further 12 months.***
 - b. ***The costs of this application shall be in the cause.***

Orders accordingly.

READ, DELIVERED AND DATED AT NAIROBI THIS 29TH DAY OF MAY 2015

E. K. O. OGOLA

JUDGE

PRESENT:

M/s Maina for the Plaintiff/Applicant

No appearance for the Defendant/Respondent

Teresia – Court Clerk