

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CIVIL APPEAL NO. 26 OF 2013

PANGAMWA TULAGA LTD.....APPELLANT

VERSUS

FRANCIS KIMANI MUTURI.....RESPONDENT

COURT RULING

This appeal was instituted on 22nd January 2013 and to date, no record of appeal has been compiled, filed and served by the appellant upon the respondent. The lower record was availed in June 2013 and both parties were notified accordingly. There have been no actions taken to set down the appeal for prosecution. The Civil procedure Rules do oblige the appellant to be active participant in the preparation of the appeal for prosecution whether it is admitted or directions taken or not.

The overriding objectives of the law in this case are that proceedings have to be heard and determined expeditiously for that is what the Constitution under Article 159 espouses that justice shall not be delayed. In this case, the respondent too deserves justice, and his legitimate expectation is that the challenge to his lawfully obtained judgment in the lower court shall be heard and determined expeditiously. The appellant's counsels were served with notice for today to show cause why this appeal should not be dismissed for want of prosecution but have not attended court. I am satisfied that there is inordinate delay in having this appeal prosecuted and there being no explanation for the inaction, I proceed and dismiss the whole appeal as filed for want of prosecution with costs to the respondents.

Orders accordingly.

Signed, dated and delivered in open court at Nairobi this 26th day of October, 2015

R.E. ABURILI

JUDGE