

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT NAKURU

CIVIL APPEAL NO.7 OF 2011

ABDI KARAH MAKARASA APPELLANT

VERSUS

LOLDIA LIMITED RESPONDENT

RULING

On 14/01/2011, the appellant filed a memorandum of appeal dated 13th January 2011. By 11th may, the original record from the lower court was received by the Nakuru High Court Deputy Registrar. Thereafter, no other steps have been taken by the appellant and on 3rd February 2014, this court issued a notice to both parties' counsel to show cause why the appeal should not be dismissed under Order 42 Rule 35 (2) Civil Procedure Rules. The Rule provides that:

Order 42 Rule 35(2)

“If, within one year after the service of the memorandum of appeal, the appeal shall not have been set down for hearing, the Registrar shall on notice to the parties list the appeal before a judge in chambers for dismissal.”

There has been no activity in this matter for three years now and appellant having failed to show cause why the appeal should not be dismissed, I hold the view that the appellant has lost interest in this matter, and it does not warrant another day's life in court. The appeal is dismissed with costs to the respondent.

Delivered and dated this 16th day of May, 2014 at Nakuru.

H.A. OMONDI

JUDGE