



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
COMMERCIAL & ADMIRALTY DIVISION
HCCC NO. 369 OF 2010

RAMCO INVESTMENT LIMITED.....PLAINTIFF

- VERSUS -

NAIROBI CITY WATER AND SEWAGE COMPANY LIMITED....DEFENDANT

R U L I N G

1. This Ruling in relation to a **Notice to Show Cause** dated **13th May 2014** issued to the parties herein pursuant to Order 17 Rule 2 of the Civil Procedure Rules 2010 to show cause why the suit should not be dismissed for want of prosecution.
2. The Plaintiff's advocates attended the court on 6th June 2014 and asked for more time to respond to the said Notice. The court extended time to 30th June 2014. The Plaintiff has now filed an affidavit dated 24th June 2014 and gives reasons therein as to why the court should not dismiss the matter.
3. The Plaintiff has explained the delay saying that the Plaintiffs filed an application and sought orders of injunction against the Defendant. Those orders were denied and the Plaintiffs sought remedy at the court of appeal where the matter is still pending. On that ground the Plaintiffs now seeks the indulgence of this court. Further, the Plaintiffs states that parties are attempting to negotiate the matter and that they only need 3 – 4 months to conclude the same.
4. What I need to emphasise at this stage is that the Plaintiff cannot purport to come to court only for the sole reason of getting the Defendant to negotiating a solution to the matter. The Plaintiff who comes to court should be able to prosecute the suit without seeking goodwill from the aggressor. I am therefore not satisfied that the Plaintiff has done enough to progress the suit. However, in the interest of substantive justice I will grant the Plaintiff the time it requires to enable it sort out this matter or else it will be dismissed.
5. In the upshot, I direct that the suit shall proceed to finalization or merit and direct the parties to comply with Order 11 and pre-trial directions within 60 days from today.
6. The matter will be mentioned on 26th September 2014 for confirmation of those directions.

Orders accordingly.

DATED, READ AND DELIVERED AT NAIROBI THIS 30TH DAY OF JULY 2014

E. K. O. OGOLA

JUDGE

PRESENT:

No appearance for Plaintiff

No appearance for the Defendant

Teresia – Court Clerk