



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI COMMERCIAL & ADMIRALTY DIVISION
CIVIL CASE NO. 423 OF 2014

**AMILI LIMITED:.....:PLAINTIFF/
APPLICANT**

- VERSUS -

THE REGISTRAR OF COMPANIES:.....:1ST DEFENDANT/RESPONDENT

THE HONOURABLE ATTORNEY GENERAL:.....:2ND DEFENDANT/RESPONDENT

R U L I N G

1. The Notice of Motion application before the court is dated **2nd September 2014** filed under Order 51 (1) of the Civil Procedure Rules, Section 339 (6) of the Companies Act, Cap 486, Sections 1A, 1B, 3 & 3A of the Civil Procedure Act.
2. The Applicant seeks the following orders:-
 1. *That an order do issue directing the Registrar of Companies to restore the name of the Applicant's Company to the Registrar of Companies.*
 2. *That an order do issue directing the Registrar of Companies to cause a notice to be published in the Kenya Gazette notifying the public at large of the restoration of the Applicant's name in the Registrar of Companies.*
 3. *That the court be pleased to issue any other order it deems fit to grant in the interest of justice.*
 4. *That costs of this application be borne by the Respondents.*
3. The application is premised on the grounds set out therein namely that on 6th June 2012, a special resolution signed by the previous directors of the Company and who no longer had control of it, was filed in the Company's Registry requesting the Registrar to strike off the name of the Applicant off the Registrar of Companies alleging that the Company was dormant and had no assets or liabilities. The the Company was in fact struck off the Register despite their being returns to show that the authors of the resolution had long ceased to be shareholders or directors of the Applicant. The striking off of the Applicant's name from the Register of Companies is detrimental to its shareholders and the Applicant came to learn of that recently thus necessitating this application. The Applicant states that the Respondent herein will not suffer any prejudice if the orders sought herein are granted by this Court, and that it is only fair and in the interest of justice that the name of the Applicant Company is restored in the Register of Companies.
4. The application is supported by affidavit of **Hamed Ehsani** dated **26th September 2014** with anenxturess thereto. The said affidavit expands mainly the above said grounds.

5. The application first came to court under Certificate of Urgency on 26th September 2014. This court certified the application as urgent and directed that the same be served upon the Respondents for hearing *inter-partes* on 9th October 2014. On the said hearing day, the Applicant was in court but the Respondent did not appear, despite them being served with the application and hearing notice. An Affidavit of Service was filed in court on 8th October 2014 proving service. On that account, I allowed the Applicant's counsel, Mr. Nderitu to proceed *ex-parte*.
6. I have carefully considered the application and affidavit in support thereof. It appears clearly that the deregistration by the Registrar of Companies of the Plaintiff's Company from the Register of Companies was an act of mistake. Since the Registrar was served with this application and the Registrar has not found it necessary to appear, I take it that the said allegation is the truth, and in light of the above, I allow the application prayed with costs to be borne by the 1st Respondent.

Orders accordingly.

READ, DELIVERED AND DATED AT NAIROBI THIS 31ST DAY OF OCTOBER 2014

E. K. O. OGOLA

JUDGE

PRESENT:

Nderitu for the Plaintiff/Applicant

No appearance for the Defendants/ Respondents

Irene – Court Clerk