

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL APPEAL NO.16 OF 2007

M N K.....APPELLANT

VERSUS

J W K.....RESPONDENT

RULING

The appellant filed a Memorandum of Appeal on the 22/5/07. The record of appeal was filed on the 19/7/07. In the application before this court the respondent seeks to have the memorandum of appeal struck out or dismissed. Reasons given are that since the memorandum of appeal was filed it has been 7 years and that the appellant has not taken any step to present the appeal and therefore the appellant is not interested in the appeal.

The application was opposed. Mr. Thuo for the applicant states that they have attempted to take dates at the registry on several occasions but the court file has been missing. That the last attempt was on the 23/7/14 and that therefore it is not correct that no action has been taken for 7 years and that they are willing to take a date.

It is evident from the letter attached by Mr. Thuo that they have been seeking dates in this matter from September 2013. I will give them the benefit of doubt in the matter and will not dismiss the appeal but order that the applicant fixes the matter for directions on the hearing in the next 90 days. In default of taking any action within the said period the appeal shall stand as dismissed with costs to the respondent. Costs shall be in the cause.

Orders accordingly.

Dated, signed and delivered this **28th** day of **October** 2014

R. E OUGO

JUDGE

.....**APPELLANT**

.....**RESPONDENT**

.....**COURT CLERK**