



**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**CIVIL CASE NO. 226 OF 2000**

**JANE NYAMBURA RUMATHI.....PLAINTIFF**

**VERSUS**

**DAKIANGA ENTERPRISES LTD.....DEFENDANT**

**RULING**

The notice of motion dated 29/5/2013 is brought by the defendant/applicant under **Order 17 Rule 2(1)** and **(3)** of the **Civil Procedure Rules** seeking an order that a notice in writing do issue on the plaintiff to show cause why this suit should not be dismissed for want of prosecution. The grounds upon which the application is predicated are that the plaintiff has not taken any steps towards prosecution of this suit for over one year; that the plaintiff was given 7 days within which to file and serve an amended plaint by J Mugo; todate they have not served the amended plaint.

I have perused the court file and do note that this matter was last before the court on 5/6/08, when the court signed its ruling in absence of the parties who had been notified of the date. In that ruling, the plaintiff was allowed to amend the plaint within 7 days. It is over 5 years since the said order was made and since then, no steps have been taken towards the prosecution of this suit. For these reasons, I hereby order that a notice to show cause do issue on the plaintiff pursuant to **Order 17 Rule 2 (1)** of the **Civil Procedure Rules**. The notice be issued by the Deputy Registrar to the plaintiff to show cause why this suit cannot be dismissed for want of prosecution. It is so ordered.

**DATED and DELIVERED this 29<sup>th</sup> day of October, 2013.**

**R.P.V. WENDOH**

**JUDGE**

**PRESENT:**

**Mr. Nyambane holding for the defendant/appellant.**

**N/A for the plaintiff/respondent**

**Kennedy – Court Assistant**