



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**

**MILIMANI LAW COURST**

**CIVIL SUIT NO.811 OF 2003**

**PAUL MULI & STELLA KANINI MUTISYA**

**T/A STEPAL DRESSMAKING & SIGN.....PLAINTIFF/RESPONDENT**

**VERSUS**

**NATION MEDIA GROUP LIMITED..... DEFENDANT/APPLICANT**

**RULING**

Application dated 29/11/2010 by Notice of Motion seeks Orders that this suit be dismissed for want of prosecution and costs be awarded to Defendant.

The application is based on grounds stated namely that the matter was before court in November 2005. No action has been taken since then. This is an old matter which was filed in August 2003.

The supporting affidavit shows that this suit is in defamation and has been in court since 1/8/2003 claiming general damages, exemplary and aggravated. Although matter was last fixed for hearing on 21<sup>st</sup> and 22<sup>nd</sup> November 2005 it was not confined for hearing.

The matter has been pending for last 5 years. In reply Paul Muli has sworn affidavit saying there has been attempts to place the matter for hearing list. That there was a call over on 29/6/2011 which was attended by their advocates but the case was not listed. It was not on Daily Cause List for 6/7/2011. It was like that until when they were served with this application on 7/9/2011.

I have considered the parties stand. There is no reason why the defendant did not take hearing date in time. Furthermore the plaintiff has shown that he has taken steps to fix the case from hearing but unsuccessfully. In the circumstances I allow further period to the plaintiff to place the suit on the hearing list within the next 45 days.

The application is dismissed but without costs.

Orders accordingly.

**Dated and Delivered at Nairobi this 16<sup>th</sup> day of February 2012.**

**J.N. KHAMINWA**  
**JUDGE**