



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
JUDICIAL REVIEW
AND
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION
MISC. APPL. NO. 1768 OF 2004
BETWEEN
REPUBLIC EXPARTE
FINTEL LIMITED.....APPLICANT
AND
KENYA REVENUE AUTHORITY.....RESPONDENT
RULING

The Notice of Motion before the Court is dated 17th July 2012 and it seeks to set aside the dismissal orders given on 16th February 2012 dismissing the suit for want of prosecution. I have read the affidavit of Hillary Maina sworn on 17th July 2012 and I am satisfied that cause has been shown to reinstate the matter.

I however, note that the applicant has been tardy in prosecuting the matter and I shall therefore impose terms for the reinstatement of this matter;

- 1. The dismissal order made on 16th February 2012 be and is hereby set aside and the Notice of Motion dated 13th January 2005 shall be reinstated for hearing.**
- 2. The ex-parte applicant shall furnish a bankers guarantee in favour of the respondent from a reputable bank in the sum of Kshs.2.5 million within 14 days from the date hereof whereupon the applicants bank account shall be enfrozen.**
- 3. If the order (2) is not complied with, the Notice of Motion shall stand dismissed.**
- 4. The Notice of Motion dated 13th January 2005 shall be heard on 24th September 2012. Parties to file and exchange written submissions.**

DATED and DELIVERED at NAIROBI this 26th day of July 2012.

D.S. MAJANJA

JUDGE

Mr P Kahonge instructed by MachariaKahonge& Company Advocates for the ex-parte applicant

Ms B Obundo instructed by the Kenya Revenue Authority, the respondent.