



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**ENVIRONMENTAL & LAND CASE 2092 OF 2007**

**KENYA ANTI-CORRUPTION COMMISSION.....PLAINTIFF/RESPONDENT**

**VERSUS**

**KAPSOEN ESTATES LIMITED.....DEFENDANT/APPLICANT**

**RULING**

The Defendant/Applicant in the Notice of Motion application dated 6/3/12 seeks orders that the Plaintiff's/Respondent's suit be dismissed for want of prosecution on grounds that no action has taken place since 5/7/2010 when a Notice of Change of Advocates was filed.

In response to the said application the Plaintiff/Respondent in a Replying Affidavit sworn on 30/5/12 depones that the Plaintiff has invited the Defendant's advocate and/or their representative on two occasions to attend the registry for purposes of fixing a hearing date. However, that on both occasions, the Court Registry indicated either that the Court Diary was closed, or that there were no available dates.

I have read and I am satisfied with the explanation given by the Plaintiff's/Respondent's in the Replying Affidavit that it has made effort to secure a hearing date. Further, in view of the parties having complied with the discovery process, and the matter touching on corruption which is a national interest, it would be in the interest of justice that this matter proceeds to hearing. I do agree that the Defendant/Applicant has not suffered serious prejudice.

In the circumstances, I decline to issue the orders sought and dismiss the Defendant/Applicant's application dated 6/3/2012. Let the Plaintiff make effort to take a hearing date within the year. Costs shall be in the cause.

Orders accordingly.

Dated, signed and delivered this **19<sup>th</sup>** day of **July** 2012

**R. OUGO**

**JUDGE**

In the Presence of:-

.....For the Applicants

.....For the Respondents

Kabiru.....Court Clerk