



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KISUMU**

**CIVIL APPEAL 140 OF 2011**

**K-REP BANK LTD.....APPELLANT**

**VERSUS**

**GEORGE A. SINO T/A JONE BROOKS CONS. LTD.....RESPONDENT**

**R U L I N G**

The application dated 6-7-2012 by the respondent/applicant seeks to have this appeal struck out with costs. When it came up for hearing on 1-10-2012 the same was not opposed. There was an affidavit of service dated 19-9-2012 and filed on 20-9-2012 sworn by one John Ocheing Ouma.

Apparently, the respondent on 26-7-2012 filed a notice to withdraw this appeal. Perhaps this explains the reasons for failing to turn up in court on 1-10-2012.

However, after perusing the application aforesaid I am satisfied that the same is meritorious. The respondent can still ventilate its issues in the Appeal No. 390/2011. Leaving this appeal to stay, although it has been withdrawn shall cause confusion to the respondent.

In the premises the application dated 6-7-2012 is allowed as prayed. The applicant shall equally have the cost of this application and the entire struck out appeal. This orders shall apply to Appeals No. 141/2-11, 142/2011 and 143/2011.

**Dated, signed and delivered at Kisumu this 15<sup>th</sup> day of October 2012**

**H.K. CHEMITEI  
JUDGE**

In the presence of:

Omondi for Ragot for appellant

Miss Odhiambo for Mulindo respondent

*HKC/va*