

REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Winding Up Cause 32 of 2009

IN THE MATTER OF CONTINENTAL B.P.O. LIMITED

AND IN THE MATTER OF COMPANIES ACT (CAP 486) LAWS OF KENYA

RULING

This winding up cause was dismissed on 18th June, 2010 for non appearance by any of the parties. By this application the Petitioner seeks a reinstatement of the Petition and relies on **Order 12 Rule 7; Order XLI Rule 1** of the **Civil Procedure Rules**, and **Section 221(1)** of the **Companies Act**.

The application is supported by the annexed affidavit of Anne Wambui Kibicho, the Advocate having the conduct of this matter on behalf of the Applicant, and is based on the grounds that-

- (i) **The case among others was taken out of the hearing list on 20th May, 2010 and fresh dates were to be taken after 18th June, 2010.**
- (ii) **The matter was accidentally listed for hearing on 18th June, 2010 without the knowledge of the Petitioner's advocates and it was subsequently dismissed for non-attendance.**
- (iii) **In the circumstances it is fair and just that this application be allowed unconditionally.**
- (iv) **That it is in the interest of justice that the orders sought be granted.**

According to a minute on the court file dated 29th April, 2010, the matter was fixed for hearing on 18th June, 2010. None of the parties attended court on that day, thereby leading to the dismissal of the Petition. However, according to the cause list of 20th May, 2010, that matter, along with 11 others, were supposed to be given a fresh date at the registry after 18th June, 2010 (emphasis added). Consequently, the matter was fixed for hearing on 18th June, 2010 in error. In the circumstances, the dismissal was also in error.

I accordingly hereby reinstate the Winding Up Petition dated 23rd October, 2009 as prayed.

Costs in the cause.

L. NJAGI
JUDGE

DATED and DELIVERED at NAIROBI this 16th day of November, 2012.

OGOLA
JUDGE