



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT NAKURU

CIVIL CASE NO 252 OF 2004

PRISCILLA CHEBET KOSIMBEIPLAINTIFF
VERSUS
NATIONAL BANK SORTUM1ST DEFENDANT
WATTS ENTERPRISES.....2ND DEFENDANT

AND

WILLITER C SORTUMINTERESTED PARTY

RULING

This suit was filed on 7/9/2004. Since 17/7/2007, the plaintiff has not taken any steps towards prosecution of this suit. The court issued a Notice to Show Cause on 6/4/2011 and the plaintiff's counsel sought an adjournment in order to file a replying affidavit. One Williter Chepkoech Sortum swore an affidavit to the effect that she is an advocate of the High Court and wanted to be enjoined to the suit in order to protect her interest in the matter. She filed her claim as directed by the court. That on 15/3/08, the advocate wrote to the plaintiff's advocate asking them to fix the matter for hearing (WCS 3) . She depones that as an interested Party there is not much she could have done to have the matter fixed for hearing without the plaintiff.

Mr Kurgat urged the court not to dismiss the claim because the interested Party will be prejudiced. At the same time, the Interested Party contends that she cannot pursue the claim without the participation of the plaintiff. I do not know how the Interested Party had intended to proceed without the plaintiff. If the Interested Party can take over the proceedings now, she could have moved the court much earlier and moved the court for hearing dates . It is over 4 years since the plaintiff took steps in this matter and over 3 years since the Interested Party was enjoined to these proceedings. This court has not been given any reason why the matter should remain pending. It is hereby dismissed for want of prosecution .

DATED AND DELIVERED THIS 17TH DAY OF JUNE 2011

**R.P.V WENDOH
JUDGE**

PRESENT

Mr Morendant for Interested Party

Mr Kurgat

CC: Kennedy Oguma