



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**NAIROBI**  
**CIVIL SUIT NO. 685 OF 2007**

**MESHACK OKOTH OBURA**  
**practicing as MESHAK OKOTH OBURA & CO.**  
**ADVOCATES.....PLAINTIFF**

**VERSUS**

**INDUSTRIAL & COMMERCIAL DEVELOPMENT  
CORPORATION.....DEFENDANT**

**RULING**

Before the court is Notice of Motion dated 17<sup>th</sup> September, 2010, premised under Order XVI Rules 5 and 6 Order L Rule 1 of the Civil Procedure Rules (now repealed) and all other enabling provisions of the law. It seeks the prayers that the suit of the Plaintiff against the Defendant be dismissed for want of prosecution.

The application is supported by the grounds set forth on the application and the supporting affidavit of Advocate Marion Karanja sworn on 17<sup>th</sup> September, 2010.

I shall mention that the application by the Plaintiff seeking prayer for issuance of fresh Summons was dismissed vide Ruling delivered on 13<sup>th</sup> May, 2011.

The application before the court was heard ex-parte, the Plaintiff having failed to appear even after the due notice of hearing was effected.

The Plaintiff was filed on 28<sup>th</sup> September, 2007 along with an application for interim orders which was granted. Thenceforth, the Plaintiff has not taken any action on the suit. The Summons were also not taken out. The suit is thus a dead suit without any possibility of its revival.

The application has *inter alia* raised the said issue and I agree that the Plaintiff without issuance of Summons is not alive.

I thus allow the application and dismiss the suit with costs.

Orders accordingly.

**Dated, signed and delivered** at Nairobi this 1<sup>st</sup> day of **July, 2011**

**K. H. RAWAL**

**JUDGE**

**1.7.2011**