



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI.**  
**(COMMERCIAL & ADMIRALTY DIVISION)**  
**CIVIL SUIT NO. 432 OF 2008**

**JOHN MURUARU MAINA ..... PLAINTIFF**

**VERSUS**

**BARCLAYS BANK OF KENYA LIMITED .....1<sup>ST</sup> DEFENDANT**  
**LUCY WANGUI IRUNGU .....2<sup>ND</sup> DEFENDANT**

**RULING**

1. On 22<sup>nd</sup> September, 2011 the 1<sup>st</sup> defendant filed an application by way of Notice of Motion seeking to have this suit dismissed for want of prosecution.
2. In the alternative, the 1<sup>st</sup> defendant urged the court to dismiss the suit for being scandalous, frivolous and vexatious and for being an abuse of the court process.
3. The application was duly served upon the plaintiff's advocates and was set down for hearing on 16<sup>th</sup> November, 2011.
4. The plaintiff's advocate did not file either a replying affidavit or grounds of opposition.
5. When the application came up for hearing Mr. Omwenga, who held brief for Mr. Mang'erere for the plaintiff, sought an adjournment, saying that the plaintiff's advocate wanted to file an application to cease from acting for him.
6. The application for adjournment was declined because it was not well premised in law.
7. The suit was filed on 4<sup>th</sup> August, 2008 but the plaintiff has so far not taken any step to prosecute the same.
8. As long as the suit remains unfinalised it is reflected as a liability in the 1<sup>st</sup> defendant's books of accounts, the 1<sup>st</sup> defendant's advocate contended.
9. I am satisfied that the plaintiff appears to have no interest at all in prosecuting the suit and consequently it is dismissed with costs to the defendants.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 18<sup>TH</sup> DAY OF NOVEMBER, 2011.**

**D. MUSINGA**

**JUDGE**

**In the presence of:**

**Muriithi – Court Clerk**

**Mr. Omwange for the Plaintiff**

**No appearance for the Defendant**