



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KERICHO**

Civil Suit 34 of 2009

1. Civil Law
2. Civil Practice and Procedure
3. Subject of main application /suit
 - a) Land
 - b) LR Kericho/Chepmoiben/1060
 - c) Trespass by defendant
 - d) Injunction
 - e) Removal of caution.
4. Certificate of urgency filed Chamber Summons 21st April, 2009
 - a) Temporary injunction to restrain
defendant from interfering with land
 - b) Order to compel the Land Registrar
Kericho/Bureti District from maintaining a caution on land.
5. Application dismissed for non attendance to Court. Order 1xb r 2 cpr
6. **Application dated 23rd April, 2009**
 - a) Leave to reinstate a suit/application
that has been dismissed
 - b) Order 1xb r 8 cpr
 - c) Reasons being failure to attend court beyond the advocates
control namely the vehicle the advocate was traveling broke

down ten kilometers from Kericho.

7. Held

- i) Explanation accepted by court
- ii) Application reinstated for hearing

8. Case Law- Nil

9. Advocate

V.K. Bii advocate instructed by the firm of

M/S Bii V.K. & Co. advocates for the Plaintiff/Applicant – present

N/A for the Defendant

ANNAH CHEPKEMOI MAINA PLAINTIFF

VERSUS

MARY CHEPKOSGEI ROP DEFENDANT

RULING

***Application to reinstate one suit that was dismissed for
non attendance to court***

I: Background

1. During the Easter Court vacation, the applicant in this land matter had filed a certificate of urgency seeking orders of Court for an injunction to restrain the defendants from interfering with her quiet possession of Land LR. Kericho/Chemoiben/1060.
2. She went further to ask the court to compel the Land Registrar to remove a caution placed against the parcel of land.
3. On the day of application was called out namely 22nd April, 2009 the advocate was absent. The application of 21st April, 2009 was dismissed for non-attendance.
4. The applicant filed this present application dated 23rd April, 2009 seeking to reinstate the same

II: Application 23rd April, 2009

5. The explanation given by the advocate for non-attendance to Court was that it was beyond his control. He was traveling in a motor vehicle (no registration number was disclosed) that it broke down 10 kilometers from Kericho. The said breakdown caused his non-attendance to court.

III: Finding

6. This court would accept that the application was brought without any inordinate delay. That the

advocate non-attendance to court on behalf of his client was beyond his control.

7. The application is accordingly granted. The orders dismissing the said application of 21st April, 2009 be set aside and reinstated for hearing.

8. The costs be in the cause.

DATED this 19th day of May, 2009 at **KERICHO**

M.A. ANG'AWA

JUDGE

Advocates

V.K. Bii advocate instructed by the firm of M/S Bii V.K. & Co. advocates

for the Plaintiff/Applicant – present

N/A for the Defendant