



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

Civil Case 11 of 2000

1. Civil Practice and Procedure

2. O16 r 2 Civil Procedure Rules

i) Notice to show cause why suit should not be dismissed for non-attendance.

3. Subject of main suit: - Running down case.

i) Cause of action 14.2.95

ii) Motor vehicle collision between two vehicles

iii) Injuries

a) Bruises on head

b) dislocation of right shoulder

c) Swollen right knee joint.

iv) costs of repair of motor vehicle

v) special damages

vi) Suit filed 8.3.00.

I: Plaintiff changes advocates three times

a) Karigo Korir & co. advocates

b) C.K. Korir & Co. advocates

c) A.C. Bett & Co. advocates

II: Defendants changes advocate no notice of change on file

Onyancha Bwomote & Co. advocates

Nyairo Orayo & Co. advocates

4. Application to dismiss suit for want of prosecution

a) Dated 15.5.00 and filed on 25.5.00

b) 29.6.07 and filed on 3.7.07

5. Parties enter into consent 29.5.08 application withdrawn with throw away costs 3,000/=

6. 11.3.09 – *Suo moto* by Court Notice to show cause why suit should not be dismissed under order 16 cpr.

7. The respondent/Defendant argues suit be dismissed for no action being taken.

8. The plaintiff prays more time be given. Leave of court was issued.

9. **Held** – Consent filed 25.5.08 but

a) not recorded by Deputy Registrar

And still remains unsigned

Deputy Registrar to investigate.

c. That 12 file notes not complete from 29.5.08.

d. The NTSC accepted.

10. Last – Leave – to file application for dismissal. Suit to go for pre trials and hearing.

11. **Case Law** – Nil

12. **Advocates**

J.R.Kimetto advocate instructed by the firm of M/s. Bett & Co. Advocates for the Plaintiff-present

F.N.Orora instructed by the firm of M/s. F.N.Orora & Co. Advocates for the Defendant-present

JASWINDER SINGH SEHMI

T/A BRIDGE MOTORS PLAINTIFF

VERSUS

MARGARET OGUTU RONO 1ST DEFENDANT

MATHEW RONO2ND DEFENDANT

RULING

I: Procedure

1. Should this suit be dismissed for want of prosecution by the Plaintiff?

2.The subject of the main suit is running down. The cause of action arose on 14th February, 1995 arising from a motor vehicle collision between two motor vehicles.

3.The Plaintiff sustained injuries to i) his head ii) bruises dislocation to the right shoulder and iii) a

swollen right knee joint.

4.He also claimed the cost of repair to his motor vehicle and special damages claim – NOT pleaded.

5.The suit was filed on 8th March, 2000.

6.The Plaintiff changed his advocate three times.

i) M/S Karigo Korir & Co. advocates

ii) C.K. Korir & Co. advocates

iii) A.C. Bett & Co. advocates

7. The defendant changes his advocate twice

i) M/S Onyacha Bwomote & Co. advocates

ii) Nyairo Orayo & Co. advocates (*uncertain if notice of change filed*)

8 Twice application for dismissal of suit for lack of prosecution was filed:-

i) Dated 15.5.00 filed on 25.5.00.

ii) 29.6.07 and filed 3.7.07.

9. The latter application, the parties entered into consent on 29.5.08 for the application to be withdrawn with throw away costs of Kshs. 3,000/= . No record made on Court file.

10. On 11.3.09, *suo moto* by court, a notice to show cause why the suit should not be dismissed.

11. The registry recorded a consent after court had given orders but not signed by the Deputy Registrar.

III: Arguments by parties.

12. The defendant argues suit be dismissed as no action has been taken.

13. The Plaintiff prays more time be given. Leave of court was issued.

IV: Held – The Deputy Registrar to investigate records of court file 29.5.08 and the clerk concerned.

If per chance he said recording was correct a full twelve (12) months have not expired. The application not granted. Suit be set down for pre trial and hearing.

DATED this 15th day of June, 2009 at **KERICHO**

JUDGE

JASWINDER SINGH SEHMI

T/A BRIDGE MOTORS PLAINTIFF

VERSUS

1. MARGARET OGUTU RONO 1ST DEFENDANT

RULING

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JUDGE

M.A. ANG'AWA

Advocates

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F.N.Orora instructed by the firm of M/s. F.N.Orora & Co. Advocates for the Defendant-present

Advocates

J.R.Kimetto advocate instructed by the firm of M/s. Bett & Co. Advocates for the Plaintiff-present

F.N.Orora instructed by the firm of M/s. F.N.Orora & Co. Advocates for the Defendant-present