

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

Civil Suit 476 of 2001

VICTOR ODUOR ODHIAMBO PLAINTIFF

VERSUS

AKAMBA PUBLIC ROAD SERVICES LIMITED..... 1ST DEFENDANT

COAST BROADWAYS & CO. LIMITED 2ND DEFENDANT

RULING

Before me is the Notice of Motion dated 7th April 2009 seeking inter alia prayers -

“1. That this suit be dismissed for want of prosecution”

Ms. Odhiambo for the 1st Defendant/Applicant in her oral submissions before court argues that the Plaintiffs filed their suit more than seven years ago. A look at the court record indicates that the Plaintiff was filed in court on 25th September 2001. The first defendant as well as the second defendant were duly served with the plaint and summonses and both filed their defences to the plaint on 17th October 2001 and 16th October 2001 respectively. No further action has been taken by the Plaintiff in pursuance of their suit to date. It is now October 2009 a clear eight years since the plaint was filed. No steps have been taken at all to prosecute the suit. Ms. Ogola for the Plaintiff/Respondent tells the court that they have received no instructions at all from their client. Indeed she had indicated a desire to withdraw from acting. The fact that the Plaintiff has not bothered to communicate with his lawyer for eight years is manifest evidence that he has lost all interest in this case. This delay in my view is inordinate. I find no valid or logical interest to sustain this suit. As such I do allow this present application and I hereby dismiss this suit for want of prosecution. No order as to costs.

Dated and Delivered at Mombasa this 12th day of October 2009.

M. ODERO

JUDGE

Read in open court in the presence of:-

Ms. Ogola for Plaintiff

Mr. Omollo holding brief for Mr. Abud for 1st Defendant/Applicant

M. ODERO

JUDGE

12/10/2009