

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

CIVIL SUIT 312 OF 1998

UNITED TRANSPORT AGENCY.....PLAINTIFF

VERSUS

SAMUEL NJUGU NJIHIA.....DEFENDANT

RULING

Since 24th November 2003 when this suit was last adjourned the plaintiff has not taken any step to have it listed for hearing. By his application dated 6th December 2007 and brought under **Order 16 Rule 5** of the **Civil Procedure Rules** the defendant seeks its dismissal for want of prosecution.

Though served with the application the plaintiff has not been moved. It has not even belatedly attempted to fix the case for hearing or even oppose this application. That is a clear manifestation that the defendant has no further interest in this suit. In the circumstances I accede to the defendant's plea and hereby dismiss this suit for want of prosecution. The defendant shall have the costs of both this application and those of the suit.

DATED and delivered at Nakuru this 16th day of October, 2008

D. K. MARAGA

JUDGE