



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

**AT NYERI**

**Civil Case 77 of 2002**

**JOYCE MUMBI MUGI.....**  
**PLAINTIFF**

**Versus**

**KENYA COMMERCIAL BANK, NYERI BRANCH..1ST**  
**DEFENDANT/APPLICANT**

**STEPHEN KARUOYA MWANGI.....2ND**  
**DEFENDANT/APPLICANT**

**RICHARD NJOROGE WACHIRA**

**T/a GREEN BELLS AUCTIONEERS.....3RD**  
**DEFENDANT/APPLICANT**

**LAND REGISTRAR NYERI.....4TH**  
**DEFENDANT/APPLICANT**

**RULING**

The First Defendant successfully applied for the Plaintiff's suit to be dismissed since the summons had become invalidated by passage of time. The court, by its ruling of 22<sup>nd</sup> March 2005, dismissed the Plaintiffs suit but failed to make an order on payment of costs. By a Notice of Motion dated 24<sup>th</sup> May 2005, the First Defendant has applied for the court to award it costs for the dismissed suit. The Plaintiff, although served, failed to attend the hearing and did not also oppose the application. By virtue of *Section 27* of the Civil Procedure Act costs ought to follow the event unless the court or the judge, for good reason, otherwise orders. The defendant, having been successful in having the Plaintiff suit dismissed as aforesaid, they are entitled to the costs of that suit.

I have considered their application and the affidavit in support and I find that the prayers therein are merited. I do therefore order that the Plaintiff will pay the First Defendant's costs of the suit and the costs of the Notice of Motion dated 24<sup>th</sup> May 2005. Orders accordingly.

***Dated and delivered at Nyeri this 11<sup>th</sup> day of May 2007***

MARY KASANGO

JUDGE