

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI COMMERCIAL COURTS)

Civil Case 1801 of 1998

RAGATI TEA FACTORY COMPANY

LIMITED – SHAREHOLDERS.....PLAINTIFF

VERSUS

JOHNSON K. GICHURU.....1ST DEFENDANT

PETER K. MATHENGE.....2ND DEFENDANT

DUNSTAN M. NGUMO.....3RD DEFENDANT

BONIFACE G. MUHAMI.....4TH DEFENDANT

JOSEPH M. NJOGU.....5TH DEFENDANT

WILLIAM I. NDUGI.....6TH DEFENDANT

R U L I N G

The defendants seek to have the plaintiff's suit filed against them dismissed for want of prosecution. It is contended that plaintiff has taken no action to prosecute his suit since 14th January 2000, when his application for an interlocutory injunction was dismissed. It is contended that the plaintiff's interest in the suit was only to obtain injunctive relief and having failed to do so has lost interest in the matter despite having been duly served with this application, there was no response from the plaintiff nor was there any representation for the plaintiff at the hearing of the application.

I have carefully perused the court record and it is evident that the plaintiff has never taken any action to prosecute this suit since their application for injunction was dismissed. The last time the parties appeared before this court it was in the year 2005 at the instigation of the defendant who had filed an application to have the plaintiff's plaint struck out.

That application was dismissed on 5th July 2005. The plaintiff has however, not bothered to have the suit listed for hearing. Indeed, the failure of the plaintiff to respond to this application or attend court clearly confirms their lack of interest in this matter. I do therefore grant notice of motion dated 17th August 2007, and issue orders as prayed.

Dated, signed and delivered this 30th day of November 2007.

H. M. OKWENGU

JUDGE