

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT ELDORET
CIVIL APPEAL 72 OF 2003

JAMES MAINA.....APPELLANT

=VERSUS=

DAVID WANJOHI KAMAU.....RESPONDENT

RULING

I have considered the application for reinstatement of the Appeal. The Appeal does not have much chance of success considering the record. There are many times when a party is bound by the actions or omissions of their Counsel. In this case I did not see that the Applicant is entirely free of blame for the reasons for the dismissal. His own advocate states that they had difficulties getting instructions from their client.

The applicant has other remedies. The Respondent has been kept out of his just income from his property. There is no permanency in a tenancy. In this case, no rent has been paid since 1992. The Applicant cannot expect to avoid payment of rent on the basis he has other claims or judgments in other suits.

Application is dismissed with costs to the Respondent.

DATED AND DELIVERED AT ELDORET ON THIS 10TH DAY OF DECEMBER

2007.

M.K. IBRAHIM,

JUDGE.