

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

Civil Case 529 of 2004

**MATHEWS SANKOK SHOMPA
....PLAINTIFF**

VERSUS

**KENYA COMMERCIAL BANK LIMITED.....1ST
DEFENDANT**

**CASH CROP AUCTIONEERS.....2ND
DEFENDANT**

**SAMUEL NJENGA KANYORO.....3RD
DEFENDANT**

**NAIROBI POOL TABLE (K) LIMITED.....4TH
DEFENDANT**

R U L I N G

The 1st and 2nd defendants have moved this court with a Notice of Motion application seeking for this suit to be dismissed for want of prosecution. The plaintiff was served with the application and on the day of hearing had not filed any papers in opposition nor was there any appearance made on his behalf.

This matter was last in court on 7th April 2005 for the hearing of the plaintiff's application for an injunction dated 6th December 2004. on 7th April 2005 the plaintiffs application was stood over generally to enable the plaintiff join other parties to this action. Since that date the plaintiff has not fixed this matter for hearing. That period of non activity is more than three months and accordingly this suit as per Order 16 Rule 5 does qualify to being dismissed for want of prosecution.

The court therefore grants the following orders: -

- (1) That this suit as against the 1st and 2nd defendant is hereby dismissed for want of prosecution.**
- (2) That 1st and 2nd defendants are awarded costs of the suit and costs of the Notice of Motion dated 9th March 2006.**

MARY KASANGO

JUDGE

Dated and delivered this 28th April 2006

MARY KASANGO

JUDGE