

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI COMMERCIAL COURTS)
Civil Case 1584 of 2000

GIRO COMMERCIAL BANK LIMITED.....PLAINTIFF

VERSUS

SUPERFORSS LIMITED.....1ST DEFENDANT

PANKAJ MOHANLAL LAKHANI.....2ND DEFENDANT

DILIP MOHANLAL LAKHANI.....3RD DEFENDANT

RULING

This matter came up on the 1st March, 2006 for parties to show cause why the suit should not be dismissed for want of prosecution. The history of this particular aspect of the matter is captured in the ruling dated 24th November, 2005 which was delivered on 25th November, 2005. I do not propose to repeat that history.

In his submissions learned counsel for the Plaintiff pointed out that the suit is already set down for hearing on the 11th of November, 2006. Delay in prosecuting the suit is explained in the affidavit sworn by the Plaintiff's learned counsel on 24th November, 2003 and another affidavit sworn by one **MODALI SASTRY** on 5th January, and filed on 9th January, 2006. He is the general manager of the Plaintiff. I accept the explanations contained in those two affidavits. In his reply learned counsel for the Defendants left the matter to court.

I hold the view that the justice of this matter demands that the suit do proceed to hearing as already scheduled. Dismissing the suit would not serve the ends of justice. I will therefore give the Plaintiff the chance to prosecute its case. The case will not be dismissed for want of prosecution. Costs in the cause.

DATED AND SIGNED AT NAIROBI THIS 3RD DAY OF MAY, 2006.

H.P.G. WAWERU

JUDGE

DELIVERED THIS 5TH DAY OF MAY, 2006.