

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Civil Case 2895 of 1991

MARY WAIRIMU NDIRANGU.....PLAINTIFF

VERSUS

GERALD THUKU.....1ST DEFENDANT

KENYA TEA DEVELOPMENT AUTHORITY LTD.....2ND DEFENDANT

RULING

The defendant brought this application by way of Notice of motion under Order L Rule 1 of the Civil procedure Rules and Section 3A of the Civil Procedure Act seeking order that the plaintiffs' suit be dismissed for want of prosecution.

The suit arises out of a traffic accident which occurred on the 8th June 1988 at about 6.30 p.m at Chinga Factory when the plaintiff was walking along a path at the Factory and was sandwiched between the building along the said path and the lorry registration NO.KVR 531 owned by the 2nd defendant and driven by the 1st defendant along the said road. As a result of the said accident the plaintiff sustained injuries. She filed this suit against the two defendants on 7th June 1991.

The defendants were served with summons and filed their defence on 15th September 1992. Since the pleadings were closed on 15th September 1992, the plaintiff has not taken any steps to fix down the suit for hearing.

The defendants apply to have the suit dismissed for want of prosecution. No steps have been taken since 16th September 1992 which is a period of 15 years. The defendants application is allowed and the suit is hereby dismissed under Order XVI Rule 5 of the Civil Procedure Rules with costs of the suit as well this application.

Dated and delivered at Nairobi this 9th day of June, 2006.

J.L.A. OSIEMO

JUDGE