

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

CIVIL SUIT NO. 287 OF 2001

PATRICK RIMO AND 29 OTHERS PLAINTIFFS

Versus

KENYA PORTS AUTHORITY DEFENDANT

R U L I N G

This is an application brought under Order 16 Rule of the Civil Procedure Rules seeking to dismiss this suit for want of prosecution. The application is based on the grounds that since 14th November 2002 the plaintiffs have not taken any step to prosecute this case and also that the plaintiffs are not interested in this case any more their kiosks having been demolished by the Municipal Council of Mombasa. The application was served upon counsel for the plaintiffs who filed a replying affidavit and grounds of opposition. But they did not appear during the hearing of the application to oppose it.

The only ground raised in the replying affidavit is that the plaintiffs could not take a hearing date because the court file went missing. There is however nothing to show that the court file was not traceable or the plaintiffs made any effort to fix the case for hearing but could not trace the file. Having failed to attend and oppose this application I am satisfied that the plaintiffs are no longer interested in this suit. I therefore allow this application and dismiss this suit for want of prosecution. Costs to the defendant.

DATED this 17th day of March 2004.

D.K. Maraga

Ag. JUDGE