

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
CIVIL APPEAL NO. 72 OF 1999

PLY & PANELS LIMITED.....APPELLANT/RESPONDENT

VERSUS

**JOHN
NJUNGE.....APPLICANT**

RULING

From the record, it is apparent that the Memorandum of Appeal was lodged in the Court on 2nd September, 1999. Unfortunately, for the last 5 years, the appellant has failed to take any steps to prosecute the appeal.

Though the appellant's Counsel alleged that the file was missing, there does not seem to have been any attempts to write to the Deputy Registrar, Nakuru to assist in tracing the same.

Having stated the above, this Court is not amused nor impressed by the conduct of the applicant's Counsel. On 9th February, 2004, he deliberately misled this Court by stating that the appellant's Counsel had been duly served. I am shocked that a Counsel would present to Court a hearing notice that has been served – with some words being omitted from the original. As an officer of the Court, I expected Mr. Mbugua to have been more candid.

In exercise of its discretion, this Court hereby rejects the application. The appellant is hereby directed to set down the appeal for hearing. I hereby order the Civil Registry to grant the parties an early hearing which in any event should be within the next 60 days.

Costs in the cause.

**MUGA APONDI
JUDGE**

Ruling written, signed and delivered in open Court.

**MUGA APONDI
JUDGE
10.3.2004**