

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KITALE

LAND CASE NO. 12 OF 2008

WIJEJE ROMBOSIA.....PLAINTIFF

VERSUS

FREDRICK KISAMBO.....DEFENDANT

RULING

1. The Notice of Motion application dated **19/11/2020** and filed in court on **30/11/2020**, has been brought under **Section 3A**, and **63(e)** of the **Civil Procedure Act**. The plaintiff seeks the following orders:-

(1) ...spent.

(2) That this honourable court be pleased to set aside and or review the orders dismissing this suit for want of prosecution.

(3) That this suit be reinstated for hearing and determination inter partes on merit.

(4) That costs of this application be provided for.

2. The application is supported by the affidavit of the plaintiff sworn on **19/11/2020**. The plaintiff also filed his written submissions dated **22/12/2020** in the record. they are not stamped with the date of filing

3. In giving directions in respect of the instant application this court ordered that you be filed an affidavit of service to enable the court be aware that the plaintiff has served the defendant and that he is not trying some unprocedural antics against him. There is none that was filed by the plaintiff. This court can not therefore be in a position to know whether the defendant was served with the application. This is quite an old matter which was dismissed for want of prosecution in the year **2016** which dismissal led to the instant application.

4. As the plaintiff has failed to comply with the lawful order of the court requiring him to file evidence of service on the defendant, I hereby strike out the application dated **19/11/2020** for non-service. There shall be no orders as to costs.

It is so ordered.

Dated, signed and delivered at Kitale via electronic mail on this 26th day of January, 2021.

MWANGI NJOROGE

JUDGE, ELC, KITALE.