

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

Civil Case 2068 of 2000

HASSAN NOOR MAHMOUDPLAINTIFF

VERSUS

TAE YOUNG ANN & OTHERSDEFENDANT

RULING

On the day called out for hearing of this suit on the 6.11.02 the plaintiff failed to attend court. The suit was duly dismissed for none attendance.

The plaintiff's explanation of his absence is that he was admitted to hospital between 1.11.02 and 16.11.02. He never got in touch with his advocate thereafter nor did he make inquiries of his case till about 4 years later.

This delay is really inordinate. It is though seen that the plaintiff comes from North of Kenya ie North Eastern Province. The communication between there and Nairobi was not very good and he would send emissaries who would not pass messages to him.

The application is opposed to have his suit reinstated. The defendant has closed their files and there is nothing left in this matter.

I would call "good cause" the distant in which the plaintiff had to communicate with his lawyers. North Eastern used to be remote, though it no longer is such.

I would allow this application and reinstate the suit with costs to the plaintiff assessed at throw away costs of Ksh.5,000/-.

This suit be set down for hearing after payment of the costs to the defendant and pre trial issue settled.

Dated this 24th day of November, 2004 at Nairobi.M.A. Ang'awa

Judge

Chaundhri & Associates Co. Advocates for the plaintiff

Riunga Raiji & Co. Advocates for the defendant