

IN THE HIGH COURT OF KENYA
AT MOMBASA
CIVIL SUIT NO. 125 OF 1997

SAID SALIM MOHAMED

MOHAMED SALIM MOHAMED

ABDALLA SALIM MOHAMED PLAINTIFFS

- VERSUS -

SHABBIR MOTOR SPARES LTD. DEFENDANT

RULING

The application by Notice of Motion is brought under the Provisions of order 16 rule 5 of the Civil Procedure Rules and Section 3A of the Civil Procedure Act. It seeks an order for dismissal of the suit for want of Prosecution.

According to the defence, the plaintiff has taken no action since the taking of Directions on 5.10.01. In reply, the plaintiff does concede through the Affidavit in reply by the Counsel that since the plaintiff got what he wanted which is possession, then there is no need to proceed with the case herein. However, the plaintiff took no action to terminate the suit. In the circumstances the suit is hereby Dismissed with costs to the Defendant.

Dated and Delivered at Mombasa this 4th day of July, 2003.

P.M. TUTUI

COMMISSIONER OF ASSIZE