



REPUBLIC OF KENYA



**KENYA LAW**  
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**Mwaniki v Kariuki (Civil Case 78 of 2014)**  
**[2025] KEHC 4210 (KLR) (Family) (3 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4210 (KLR)

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**FAMILY**  
**CIVIL CASE 78 OF 2014**

**HK CHEMITEI, J**

**APRIL 3, 2025**

**BETWEEN**

**GRACE WANJIKU MWANIKI ..... APPLICANT**

**AND**

**STANLEY MWANIKI KARIUKI ..... RESPONDENT**

**RULING**

1. In her application dated 11<sup>th</sup> June 2024 the Applicant prays that the orders of this court dated 13<sup>th</sup> February 2023 dismissing this suit for want of prosecution be set aside and the suit be reinstated.
2. The application is based on her affidavit sworn on the same date. She essentially blames her erstwhile counsel for not informing her of the progress of the case. She deponed that she was therefore innocent of what was taking place and in the interest of justice the matter be reopened.
3. The Respondent vide his replying affidavit dated 27<sup>th</sup> June 2024 has opposed the same on the grounds that the case did not belong to her advocate and she ought to have been vigilant.
4. That the Applicant has never been interested in the matter and she has caused delays on numerous occasions and the dismissal was therefore lawful and ought to be upheld.
5. The court has perused the application and the record of the court as well as the parties' submissions and the cited authorities.
6. It is common knowledge that such an application calls for the discretion of the court. It is noted that the dismissal was done unilaterally by the deputy registrar of the court when she was undertaking her usual administrative roles.



7. It is true that the matter has inordinately stayed for long without prosecution. The Respondent on the other hand had not taken any steps to have it dismissed. He cannot therefore take credit for what the registrar did.
8. This court shall exercise its discretion under the provisions of Article 159 of *the Constitution* and direct that the orders of this court dismissing the suit dated 13<sup>th</sup> February 2023 are hereby set aside.
9. Costs shall be in the cause.
10. The Applicant is directed to fix the matter for directions and or hearing forthwith and not less than 45 days from the date herein and in default the suit shall stand dismissed.

**DATED SIGNED AND DELIVERED AT NAIROBI THIS 3RD DAY OF APRIL 2025.**

**H K CHEMITEI**

**JUDGE**

