



Akida v Shisia (Civil Appeal 82 of 2022) [2024] KEHC 1230 (KLR) (9 February 2024) (Ruling)

Neutral citation: [2024] KEHC 1230 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CIVIL APPEAL 82 OF 2022
PJO OTIENO, J
FEBRUARY 9, 2024**

BETWEEN

RAJAB AKIDA APPELLANT

AND

IBRAHIM OMULAH SHISIA RESPONDENT

*(Being an appeal from the Judgment and decision of Hon. G. Ollimo (SPM)
in Butere SPMCC Case No. 89 of 2019 delivered on 22nd September 2022)*

RULING

1. On the 14.11.2022, when the matter came for the hearing of the application for stay pending appeal, when the Appellant failed to attend court, the said application was dismissed, the appeal was deemed admitted and direction given to first track the appeal.
2. One of the directions was that the Appellant files and serves both record of appeal and submissions within sixty (60) days and on default the appeal would stand dismissed.
3. In computing the time within which compliance was to be made, the Court reckons with the duration between 21st December and 13th January and determines that the last day for compliance was 3rd February, 2023. By that date, when the Appellant failed to comply with directions of the Court, the appeal stood dismissed. The Court file shows that the record of appeal and submissions were not filed till the 30.6.2023. Such documents were filed on a non-existent appeal and are of no consequence.
4. It would require that the appeal be reinstated before the Court can set on a journey in handling any matter on it. As of today, this appeal stands dismissed. The matter has been raised by the Respondent and the Appellant has chosen not to offer any rebuttal. He has equally chosen not to remedy the situation by seeking reinstatement.
5. The Court is left with no option but to find that with the dismissed appeal this file now demands closure.



6. Let the file be closed forthwith.

DATED, SIGNED AND DELIVERED AT KAKAMEGA, THIS 9TH DAY OF FEBRUARY, 2024.

PATRICK J. O. OTIENO

JUDGE

In the presence of:

Mr. Shikanda for Ashioya for the Appellant

Ms. Anono for the Respondent

Court Assistant: Polycap Mukabwa

