



**Mwangi & another v Consolidated Bank Limited (Civil Suit 16 of 2019)  
[2024] KEHC 12110 (KLR) (Civ) (3 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 12110 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CIVIL  
CIVIL SUIT 16 OF 2019  
RC RUTTO, J  
OCTOBER 3, 2024**

**BETWEEN**

**SAMUEL GATHOGO MWANGI ..... 1<sup>ST</sup> PLAINTIFF**

**HYPERTECK ELECTRICAL SERVICES LTD ..... 2<sup>ND</sup> PLAINTIFF**

**AND**

**CONSOLIDATED BANK LIMITED ..... DEFENDANT**

**RULING**

1. This matter was listed for Notice to show cause.
2. A perusal of the file show that that last time this matter was actively in court was on 11<sup>th</sup> March, 2020 approximately four years ago when M/s Wambu informed the court that they had just come on record for the bank/defendant. They also informed court that the plaintiff advocate never served the defendant. The matter was set out for mention on 30<sup>th</sup> April 2020 for further directions. However, since then, the parties have not made any attempt to move the court and or set out the matter for hearing.
3. Order 17 Rule 2 of the Civil Procedure Rules – gives this court the powers to dismiss a case where no step has been taken by either of the party for a period of one year. In this case no step has been taken for a period of over four years. Clearly, this is inexcusable.
4. Further, this court takes not that this is a 2019 matter which means it has been in court for a period of 5 years. Notably, litigation must be expedited and concluded by parties who seek justice. They must be seen to be actively involved in their matter and dispute. Any delay should not be unreasonable and in-ordinate.



5. This court therefore finds that an inactive the period of 4 years is too long. The period and remains unexplained due to the continuous non-attendance by parties.
6. In the circumstances, I proceed to exercise discretion and proceed to dismiss the action forthwith. I am also guided by the case of Investment Limited vs G4S Security Services (2015) eKLR and proceed to make the following orders;
  1. This suit is dismissed forthwith.
  2. Each party shall bear its own costs.

Orders accordingly.

**RHODA RUTTO**

**JUDGE**

**DELIVERED, DATED AND SIGNED ON 3<sup>RD</sup> THIS DAY OF OCTOBER 2024 AT NAIROBI**

For Plaintiff- N/A

For Defendants-N/A

Court Assistant- Peter Wabwire

