



**Al Hyder Trading Company Limited & another v Diamond Trust Bank Kenya Limited & another
(Commercial Case 46 of 2018) [2023] KEHC 22579 (KLR) (19 September 2023) (Ruling)**

Neutral citation: [2023] KEHC 22579 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
COMMERCIAL CASE 46 OF 2018
RE ABURILI, J
SEPTEMBER 19, 2023**

BETWEEN

AL HYDER TRADING COMPANY LIMITED 1ST PLAINTIFF

RANA SHAUKAT ALI WARYAM 2ND PLAINTIFF

AND

DIAMOND TRUST BANK KENYA LIMITED 1ST DEFENDANT

JOSEPH GIKONYO T/A GARAM INVESTMENT 2ND DEFENDANT

(FORMERLY ELC NO. 280 OF 2015)

RULING

1. The application dated May 18, 2022 is for dismissal of this suit for want of prosecution with costs.
2. The Plaintiff was served but no Replying affidavit or submissions have been filed to oppose the application.
3. For the above reasons, as the suit has been pending since May 22, 2018 and since the Ruling of April 29, 2020 the Plaintiff has never taken steps to prosecute the suit.
4. The suit herein against the defendant is hereby dismissed for want of prosecution with an order that each party bear their own costs of the suit as the 1st Defendant will still exercise its statutory power of sale in this matter.
5. This file is closed.
6. The Ruling to be typed and supplied to the parties.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 19TH DAY OF SEPTEMBER, 2023



R. E. ABURILI
JUDGE

