



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CIVIL DIVISION

HIGH COURT CIVIL APPEAL CASE NO. 265 OF 2020

INTERCESSORY DELIVERANCE &

COUNSELLING MINISTRY.....APPELLANT/APPLICANT

VERSUS

TACK HOLDINGS LIMITED1ST RESPONDENT

NAIROBI CITY COUNCIL.....2ND RESPONDENT

RULING

1. The application dated 29/1/2021 seeks orders that;

a. Spent

b. The orders made by this Honourable court on 28th January, 2021 dismissing the Appellant's \ application dated 18th November, 2020 be set aside.

c. The Appellant's application dated 18th November, 2020 and filed on 19th November, 2020 be reinstated and set down for hearing interparties.

d. The cost of the application be in the cause.

2. The application is based on the grounds set out in the application and the affidavit in support. The dismissal of the application for non-attendance is blamed on technical hitches by the Applicant's Advocate during the online court session. It is further stated that if the orders sought are not granted the Applicant who is the Appellant herein will suffer prejudice as the application that was dismissed sought orders for stay of the Lower Court proceedings pending the hearing and determination of the Appeal.

3. The application is opposed. It is stated in the replying affidavit filed by the 1st Respondent that no list of participants for the court session in question has been printed and exhibited herein by the Applicant to ascertain the truth. It is further averred that the application is devoid of merits and is aimed at causing delay.

4. The 2nd Respondent associated itself with the replying affidavit and the submissions filed by the 1st Respondent.

5. I have considered the Application, the response and the submissions filed.

6. A perusal of the court file reflects that the Applicant had been attending court prior to the date of the dismissal. There is no history of delay caused by the Applicant herein. Technological challenges are teething problems in virtual proceedings as they are a new phenomenon in our jurisdiction. This court therefore accepts the explanation for the non-attendance.

7. I allow the application with costs in cause.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 15TH DAY OF JULY, 2021

B.THURANIRA JADEN

JUDGE