

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL DIVISION

HIGH COURT CIVIL CASE NO. 167 OF 2016

THE MONARCH INSURANCE CO. LTD.....PLAINTIFF

VERSUS

ROBERT OCHIENG MUGGAH.....DEFENDANT

RULING

1. The Plaintiff instituted this suit vide a plaint dated 29/6/2016 and Summons to Enter Appearance were issued on 5/7/2016.
2. No further steps were taken in the suit. On 5/5/2021 the court issued a Notice to Show Cause why the case should not be dismissed for want of prosecution in accordance with Order 17 Rule 2, Civil Procedure Rules.
3. On 21/5/2021 when the suit was listed for dismissal, the Plaintiff's counsel attended court and subsequently filed an affidavit showing cause why the case should not be dismissed. The Defendant did not attend court. The Court record reflects that the Defendant was duly served.
4. It is stated in the Plaintiff's affidavit that the delay herein has been occasioned by the Advocate in conduct of the matter who left the employment of the firm of Advocates on record for the Plaintiff. The court was urged not to visit the inadvertent and unintentional mistakes of the Advocate on the litigant. Further delay is blamed on the outbreak of the Covid 19 Pandemic. The Applicant is willing to expedite the hearing of the case.
5. A litigant ought to follow up on the progress of the case and not merely leave it to the Advocate. However, now that the Plaintiff has shown interest in pursuing the case, this court is persuaded to let the case proceed on merits.
6. The Applicant to take the next step in this case within 45 days from the date hereof. In default the suit to stand dismissed.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 8TH DAY OF JULY, 2021.

B.THURANIRA JADEN

JUDGE