

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

CIVIL APPEAL NO. E011 OF 2021

CORAM: HON. R.E. ABURILI, J

SAMWEL OTIENO OCHIENG.....APPELLANT

VERSUS

MARTIN OBIERO ACHIENG....RESPONDENT

(Appeal arising from Judgment and Order delivered on 14/4/2021 in Bondo Principal Magistrate's Court PMCC No. 68 of 2020 by Hon. S. Mathenge, Resident Magistrate)

DIRECTIONS

1. On 20/8/2021 the court Registry notified the appellants' counsel by email that this matter which had come up before Deputy Registrar on 19/8/2021 was due today before the Judge for further directions.
2. On 30/6/2021 I had given directions on the filing of record of appeal and listed the matter for mention on 26/7/2021 to confirm compliance.
3. On 26/7/2021 there was no appearance by the appellants' counsel despite Notice so I extended time for compliance with orders of 30.6.2021.
4. On 19/8/2021 when the matter came up before the Deputy Registrar, it was observed that Ms. Nanungi Manut Advocate had send an email saying she was yet to file submissions in the matter and requested for additional 2 weeks to file the same. The Deputy Registrar then fixed todays date for further directions.
5. The orders of 30/6/2021 directed the filing of a record of appeal with written submissions within 21 days. The record of appeal was filed on 2/6/2021. However, no submissions have been filed by the appellant to dispose of the appeal and no application has been made to review the order of 30/6/2021.
6. Despite asking for 2 more weeks on 19/8/2021, todate, no submissions have been filed. In my orders of 26/7/2021, I directed that non-compliance would lead to the appeal standing dismissed, as this court is not archive for filed cases which are not being prosecuted.
7. The appellant had not demonstrated any intention to prosecute this appeal.
8. For the above reasons, I hereby order that this appeal is hereby dismissed with no orders as to costs.
9. Registry to notify the parties' advocates.
10. Orders accordingly.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 22ND DAY OF SEPTEMBER 2021

R.E. ABURILI

JUDGE