

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL CASE NO. 326 OF 2014

HON. KIRAITU MURUNGI.....PLAINTIFF

VERSUS

NATION MEDIA GROUP LIMITED1ST DEFENDANT

KEN MIJUNGU.....2ND DEFENDANT

RULING

The plaint herein was filed on 15th October, 2014 and a defence was filed on 20th January, 2015 after the interlocutory judgment that had been obtained against the defendants was set aside vide a consent filed in court on 20th January, 2015.

After that, none of the parties took any action in the matter. The court on its own motion issued notices to show cause why the suit should not be dismissed and it was first listed on 31st May, 2019 for the same. On the said date, counsel for the plaintiff had not been served with the notice and it was not until 9th October, 2019 when both parties filed their respective affidavits in response to the notice to show cause.

The court has duly considered the affidavits aforesaid. The plaintiff on his part avers that he is ready and willing to prosecute the case and blames the defendants for failing to comply with pre-trial directions under Order II of the Civil Procedure Rules.

On their part, the defendants have urged the court to dismiss the suit as according to them, the plaintiff appears to have lost interest in prosecuting the same and that he has not shown any good cause why it should not be dismissed for his inaction.

They aver that they are being highly prejudiced by the delay as with time, memories fade and employees move and therefore, it is in the interest of justice that the matter be dismissed for want of prosecution.

From the record, the court is able to ascertain that the plaintiff has not taken any action in the matter from 20TH January, 2015, when the defendants filed their defence. In her affidavit, counsel for the plaintiff has blamed the defendants for the delay by failing to comply with Order II. It is clear that a case such as this belongs to the plaintiff and he is under duty to prosecute the same expeditiously. The plaintiff has not shown what steps he has taken since the defence was filed. I concur with the defendants that no good reason has been given to this court as to why the matter should not be dismissed for want of prosecution. However, in the interest of justice, this matter is spared from dismissal but in view of its age, the court hereby orders that the same be prosecuted within six (6) months from the date of this ruling failing which it shall stand dismissed.

Dated, Signed and Delivered at Nairobi this **14TH Day of NOVEMBER, 2019.**

L. NJUGUNA

JUDGE

In the Presence of

.....For the Plaintiff

.....For the 1st Defendant

..... For the 2nd Defendant