

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL APPEAL NO. 438 OF 2011

GITHUNGURI DAIRY FARMERS CO-OP SOCIETY.....APPELLANT

- V E R S U S -

PETER NGANGA WAWERU & 22 OTHERS.....RESPONDENT

RULING

1) Pursuant to the provision of Order 35 rule 2 of the Civil Procedure Rules, the Deputy Registrar of this court served the parties to this appeal with a notice to show cause(N.T.S.C) why the appeal should not be dismissed for want of prosecution. The notice to show cause is dated 17.11.2015.

2) Githunguri Dairy Farmers Cooperative Society responded to the notice to show cause by filing the affidavit of its chairman, Charles Ndichu Mukora to explain why the appeal should be spared for hearing. The main reason advanced by the appellant for the delay in prosecuting the appeal is that the Cooperative Tribunal had failed to supply the appellant with the typed proceedings and ruling despite making several written requests. I have perused the correspondences annexed to the affidavit of Charles Ndichu Mukora and I am satisfied that the appellant has given plausible explanation for the delay in prosecuting the appeal. The notice to show cause is set aside. Parties are directed to expedite the processes of getting the appeal ready for hearing. Costs of the notice to show cause to abide the outcome of the appeal.

Dated, Signed and Delivered in open court this 10th day of March, 2017.

J. K. SERGON

JUDGE

In the presence of:

.....for the Appellant

.....for the Respondent