



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI COMMERCIAL & ADMIRALTY DIVISION
CIVIL CASE NO. 290 OF 2002

JEREMIAH MATOKE ::::::::::::::::::::::::::::::::::: PLAINTIFF

VERSUS

KENYA COMMERCIAL BANK LIMITED ::::::::::: 1ST DEFENDANT

WILLIAM WILHITE ANYENDA ::::::::::::::::::::::: 2ND DEFENDANT

R U L I N G

1. The **Notice of Motion** application before the court is dated **20th August 2015** filed by the Plaintiff/Applicant. The application seeks the following orders:-
 1. *Leave be granted to the Plaintiff to amend the Plaintiff in terms of the amended Plaintiff filed herein.*
 2. *The Amended Plaintiff duly filed be deemed to have been filed with leave of the court.*
 3. *Costs of this application be in the cause.*
2. The application is premised on the grounds set out therein and is supported by the affidavit of Namda Simoni sworn on 20th August 2015.
3. In brief, the Applicant's case is that the suit herein was dismissed on 16th June 2015. That at the time of dismissing this suit, there was no Notice issued to the Applicant to show cause why the suit should not be dismissed. The last orders and action on this file was by Justice Odunga who delivered a Ruling on the 19th December 2014 allowing amendment of the Plaintiff. Thereafter the Applicant has all along sought to fix the matter for hearing but the registry advised that no dates were available. In the circumstances, the case was not one that should have been put up for dismissal for want of prosecution.
4. The application is not opposed.
5. I have considered the application. It is merited based on the grounds and the supporting affidavit. The same is allowed as prayed with costs in the cause.

Orders accordingly.

READ, DELIVERED AND DATED, AT NAIROBI

THIS 4TH DAY OF DECEMBER 2015.

E. K. O. OGOLA

JUDGE

PRESENT:

M/s. Kiduduhuu h/b for Namanda for the Plaintiff

M/s. Keino for the 1st Defendant

Teresia – Court Clerk