



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**JUDICIAL REVIEW DIVISION**

**JR CASE NO. 159 OF 2003**

**REPUBLIC.....APPLICANT**

**VERSUS**

**THE TOWN CLERK,**

**CITY COUNCIL OF NAIROBI..... RESPONDENT**

**EX-PARTE..... LEAH WAMBUI  
KAMANDE**

**RULING**

Through the notice of motion application dated 4<sup>th</sup> November, 2013 the applicant prays that this Court sets aside its order of 16<sup>th</sup> March, 2012 dismissing her case. The application is supported by an affidavit sworn on 5<sup>th</sup> November, 2013 by Ndolo Felix Onyango, an advocate of the High Court. In the said affidavit the deponent who is the applicant's counsel avers that he was not served with any notice to show cause on the intended dismissal of the matter for want of prosecution. He averred that the file was active at the time of the dismissal as the applicant had filed an application dated 18<sup>th</sup> October, 2012.

The application is not opposed. I have considered the applicant counsel's unchallenged averment that notice was not served before the matter was dismissed and find that it is in the interests of justice that the dismissal order issued on 16<sup>th</sup> March, 2012 should be set aside. The application dated 4<sup>th</sup> November, 2013 is therefore allowed as prayed. Costs in the cause

Dated, signed and delivered at Nairobi this 6<sup>th</sup> day of June, 2014

**W. KORIR,**

**JUDGE OF THE HIGH COURT**