

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU

CIVIL CASE 619 OF 1994

NATIONAL BANK OF KENYA.....PLAINTIFF

VERSUS

JOHN IMBAYI AMUKOYE.....DEFENDANT

RULING

This case was filed on 19/9/1994, about 18 years ago. On 27/4/2012, the court issued notice on the plaintiff under **Order 17 Rule 2** of the **Civil Procedure Rules**, to show cause why this suit should not be dismissed for want of prosecution. Kamau Muthanwa, Advocate for the plaintiff filed an affidavit opposing the dismissal. He stated the various steps taken in this matter since 2008 with a view to having the case heard. He deponed that the plaintiff's case was heard on 21/1/2009 and from 10/3/09 the defence counsel filed an application seeking to withdraw and the said application was not determined till 21/7/2010. It is his view that the plaintiff has been keen on prosecuting this matter and beseeched the court to allow the plaintiff prosecute the suit to its conclusion in the interests of justice.

Even if the defence counsel's application was pending from 2009, it was determined on 21/7/2010, when the defence counsel withdrew from the case. it is now over 1 year 10 months since any steps were taken towards prosecution of this case. The plaintiff has not explained why the inaction, if indeed the plaintiff was keen to prosecute the suit for that long. Since counsel has been awakened from slumber, if he is indeed serious, the court directs that this suit be set down for hearing and be heard within the next 90 days failing which it stands dismissed.

DATED and DELIVERED this 5th day of July, 2012.

R.P.V. WENDOH
JUDGE
PRESENT:

No appearance for the plaintiff

John Imbayi Amukoye – defendant in person

Kennedy – Court Clerk