



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL CASE NO. 5262 OF 1993

RUAHA CONCRETE COMPANY LTD.....PLAINTIFF  
VERSUS  
MONAREH INSURANCE CO. LTD.....DEFENDANT

RULING

This is an application under Order 16 Rule 5 of the Civil Procedure Rules and section 3A of the Civil Procedure Act by way of Chamber Summons seeking an order that the suit herein be dismissed for want of prosecution.

The defence herein was filed on 7th June, 1994 and pleadings were deemed to have been closed 14 days thereafter. For over 31/2 years no steps have been taken by the plaintiff in this matter. Summons for directions have not been taken out and no interlocutory applications have been filed since that time. I have seen the affidavit in reply to the application but with respect, there must have been some evidence existing before this suit was filed and therefore, the excuse that the delay was caused by none availability of evidence cannot stand.

I know that striking a pleading is a drastic measure to take but the circumstances of this case do not call for the retention of this suit in the records.

Accordingly this suit is hereby dismissed with costs for want of prosecution. The defendant shall have the costs of the suit and this application.

Orders accordingly.

**Dated and delivered at Nairobi this 31st day of July, 1998**

**A. MBOGHOLI MSAGHA**

**JUDGE**

