



**CIC General Insurance Limited v Ndungu (Civil Case E008 of 2023)  
[2025] KEHC 13302 (KLR) (25 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 13302 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIVASHA  
CIVIL CASE E008 OF 2023  
GL NZIOKA, J  
SEPTEMBER 25, 2025**

**BETWEEN**

**CIC GENERAL INSURANCE LIMITED ..... PLAINTIFF**

**AND**

**ALEX KIRITU NDUNGU ..... DEFENDANT**

**RULING**

1. By a Notice of Motion application dated 4<sup>th</sup> April 2024 and amended on 10<sup>th</sup> December 2024, brought under the provisions of Article 159 of the Constitution of Kenya 2010, Section 1A, 1B and 3A of the Civil Procedure Act and Order 12, Rule 7, Order 51 Rule 1 of the Civil Procedure Rules 2010 and all the enabling provisions of the law, the applicant is seeking for the following orders:
  - a. That the Honorable Court be pleased to re-open this file which was marked as closed on 30<sup>th</sup> January 2024.
  - b. That the Honorable Court be pleased to grant an order reinstating the Plaintiff/Applicant's Civil Suit No. E008 of 2023 which was dismissed for non-attendance on 30<sup>th</sup> January 2024.
  - c. That the orders made by this Honorable Court on 30<sup>th</sup> January 2024, dismissing the Plaintiff's Civil Suit No. E008 of 2023 together with the consequential orders be set aside.
  - d. That it is fair and just to grant the orders, to grant the orders.
2. The application is based on the grounds thereto and an affidavit sworn by Ontita Godwiny Onyancha, an Advocate of the High Court of Kenya who is representing the Plaintiff/Applicant in this matter.
3. He avers that the suit was dismissed on 30<sup>th</sup> January 2024, for want of prosecution owing to non-attendance by the parties' Advocates. That there is an error apparent on the court record as he actually addressed the court on that date and the court gave another date for mention on 25<sup>th</sup> March 2025.



4. That the Defendant/Respondent was served with the notice of the new mention date and an affidavit dated 21<sup>st</sup> March 2024, filed in court and that indeed the parties attended the court on 25<sup>th</sup> March 2024 but were not allowed into the meeting.
5. That after the applicant perused the court file, it was noted that a notice to show cause was issued as to why the suit could not be dismissed and allegedly was served, but the applicant was served. He further avers that the summons to enter appearance have been served upon the Defendant/Respondent but he is yet to enter appearance.
6. Further, the Applicant has a good claim and wishes to proceed with it. Furthermore, the Respondent will not suffer any if they said orders are granted. Finally, the application has been brought without undue delay.
7. That, it is just, fair and in the interest of justice to allow the application and order for reinstatement of this suit.
8. The Respondent did not file any response to the application.
9. Upon considering the application, I note from the court record that on 30<sup>th</sup> January 2024, the matter was called out but there were no parties in court. Consequently, the court ordered that suit be dismissed as the notice to show cause was served but there is no response.
10. I further note from the court file that on 9<sup>th</sup> January 2024, the firm of Kiruki & Kayika received and stamped a Notice to Show Cause served upon them to appear in court on 30<sup>th</sup> January 2024.
11. As such the applicant's counsel's averment that they did not receive the notice is not factually correct. Furthermore, the allegation that parties were in court on 30<sup>th</sup> January, 2024 when the matter was dismissed is not supported by the record.
12. Consequently, reasons advanced in support of the application have no merit, but the Plaintiff/Applicant will suffer great prejudice if the suit is dismissed due to the mistake of the counsel and noting that the Defendant/Respondent has not opposed the application, in the interest of justice, I allow the reinstatement of the suit.
13. I further direct that the parties comply with the pre-trial direction requirements within two (2) weeks of the date of this order. The matter reverts for further directions on 6<sup>th</sup> October, 2025.
14. The orders herein be transmitted to the parties forthwith

**DATED, DELIVERED AND SIGNED ON THIS 25<sup>TH</sup> DAY OF SEPTEMBER, 2025.**

**GRACE L NZIOKA**

**JUDGE**

