



**Space and Style Limited v Shamgro Limited (Civil Case E011 of 2018)
[2025] KEHC 13972 (KLR) (Commercial and Tax) (25 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 13972 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
CIVIL CASE E011 OF 2018
F GIKONYO, J
SEPTEMBER 25, 2025**

BETWEEN

SPACE AND STYLE LIMITED PLAINTIFF

AND

SHAMGRO LIMITED DEFENDANT

RULING

1. The plaintiff's notice of motion dated 17th February 2025 is seeking the reinstatement of its suit. It urges the court to set aside the order of 13th May 2021 dismissing its suit for want of prosecution.
2. The application is premised on the grounds on its face and supported by the affidavit sworn by Charles Njenga, Advocate on 17th February 2025.
3. Mr. Njenga deposed that on 13th May 2021 the matter came up before Justice Okwany' for notice to show cause why it should not be dismissed. His associate, Ms. Esther Kihara attended. Ms. Kihara informed the court that the plaintiff had filed a request for judgment dated 22nd June 2020. The court directed counsel to ensure that the request is in the court file and slated the matter for mention on 24th June 2021 before the deputy registrar.
4. Mr. Njenga further deposed that on 24th June 2021, the matter was not listed despite the court's directions. He indicated that numerous follow ups and best efforts to have the matter prosecuted were futile as the file could not be traced. That when the file was finally retrieved and mentioned on 23rd April 2023 before the Deputy Registrar, Hon. Kyanya, it was noted that the suit had already been dismissed for want of prosecution on 13th May 2021.



5. It was asserted that the alleged dismissal of 13th May 2021 was erroneous, considering that Ms. Kihara appeared before Justice Okwany, who did not mention the matter but stated the matter for mention before the deputy registrar.
6. It was also asserted that the plaintiff has always been keen on prosecuting its claim and should not suffer on account of this error; that it is in the interest of justice that the suit be reinstated and that the application has been brought without undue delay.

Analysis and Determination

7. The plaintiff produced a copy of the cause list for Thursday 13th May 2021 before Justice Okwany'. The matter was listed before the judge for dismissal for want of prosecution.
8. The record of activities on the Judiciary's case tracking system shows that the matter was dismissed for want of prosecution on 13th May 2021.
9. However, in the record of proceedings, the court noted that Ms. Kihara appeared for the plaintiff and sought directions on the request for judgment dated 22nd June 2020. The court also noted that the request for judgment was not in the court file. Thus, the court directed the plaintiff to follow up the matter with the DR and slated a mention on 24th June 2021.
10. It is apparent that there is no order dismissing the suit for want of prosecution. Therefore, there is no order for dismissal to be set aside. There is also no need for reinstatement of the suit.
11. There are no recorded proceedings for the mention that had been slated for 24th June 2021, as directed by the court.
12. The plaintiff exhibited a copy of its request for judgment dated 22nd June 2020 seeking interlocutory judgment as prayed for in the plaint dated 26th April 2018. It also exhibited a confirmation of receipt of filing fees in respect of the request for judgment.

Disposal

13. The application dated 17th February 2025 is allowed in the following terms:-
 1. The CTS record showing that the matter was dismissed be expunged.
 2. The matter be placed before the Deputy Registrar for hearing of the request for judgment dated 22nd June 2020 on a date to be appointed by the court.

DATED, SIGNED AND DELIVERED THROUGH MICROSOFT TEAMS ONLINE APPLICATION THIS 25TH DAY OF SEPTEMBER, 2025

F. GIKONYO M

JUDGE

In the presence of: -

Ms. Swaka for Njenga for plaintiff

Defendant in person

CA Kinyua

