



**Kenblest Limited v Karima Girls School (Civil Case 1025 of 2023)
[2025] KEHC 15540 (KLR) (Civ) (30 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15540 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CIVIL
CIVIL CASE 1025 OF 2023**

LP KASSAN, J

OCTOBER 30, 2025

BETWEEN

KENBLEST LIMITED PLAINTIFF

AND

KARIMA GIRLS SCHOOL DEFENDANT

RULING

1. This is an application to reinstate an appeal which had been dismissed on the 2nd day of July 2024 basically for the reason that the Appellant's advocate experienced technical difficulty in logging into the Court session and as a result the appeal was dismissed. I have read the submissions and affidavits on record and wish to note the following in order to dispose off this Appeal.

General principles on dismissal of Appeal.

2. The standard that the Courts must always embrace before dismissal is higher than on a balance of probability. This is because dismissal has the effect of denying justice and fair hearing to a litigant. Dismissal should always be applied with caution and after carefully balancing the rights to Justice and expeditious disposal of cases. The key word is "irreparable damage" and whether any prejudice can be ameliorated by any remedy. As a matter of fact, dismissal is an ultimate end of litigation unless there is an appeal which cannot be a reason for dismissal in the first place. Under these circumstances, the Respondent, if this Court decides to reinstate the Appeal, will be compensated with costs

Date of dismissal;

3. The period between the date when the matter was dismissed and when an application for reinstatement is made is important in deciding whether to reinstate the Appeal or not. It will point out at the desire of an Appellant to prosecute the Appeal and may indicate if such decision is genuine or merely an



afterthought to waste Court's time. In this case, the Application for reinstatement was filed barely within two months. This to me cannot be regarded as an inordinate delay if all circumstances such as learning of the dismissal, consulting the client on the way forward and preparing the Application and having it signed.

Proceedings

4. The Court issued directions that the proceedings were ready on the 4th day of June 2024 just a month before the dismissal herein. It is clear that advocates cannot be largely blamed for delay in filing proceedings and although they are obliged to "make a follow up", the Courts are bound to fast track the typing of proceedings on its own motion. On this note, this cannot be a reason to lay blame on the Appellant advocate. Sometimes the said "making a follow up" may be interpreted to mean lobbying which may interfere with other proceedings in the typing pool or in other words give preference to a specific matter- something that is unacceptable unless due to peculiarity of the matter the Court so ordered. There is no demonstration that this Appeal is in any way peculiar for the queue to be "jumped".

Proceedings in the Court file

5. The file has photocopied proceedings in the file meaning that it was ripe for submissions but however I must admit that I strained to decipher a word in it. The mere act of photocopying the lower Court hand written notes my point on the level of desperation in preparing a Record of Appeal and even with these ineligible proceedings I would not myself be able to write a Judgment.

Failure to attend Court;

6. Attending Court may be a pointer of seriousness in litigation but it is not fatal especially where it is for mentions for compliance. This however does not mean that mentions are unnecessary because it is through these mentions that parties get to learn of the next date in Court. In this case the Appellant advocate knew of the dismissal.

Technicalities in logging

7. Sometimes this happens not only for advocates but even the Court itself. In deciding whether to reinstate a matter based on the issue of technicality, the Court must look at the proceedings to know if such technical issue is common for the same advocate along with other relevant factors.
8. The upshot of the above is that the Appeal is reinstated with costs to the Respondent. Given the peculiarity of this matter I direct that the matter be concluded within six months from today.

DATED DELIVERED VIRTUALLY AND SIGNED THIS 30TH DAY OF OCTOBER 2025

HON L P KASSAN

JUDGE

