

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KIAMBU**

**CIVIL CASE NO. E017 OF 2025**

**KENYAN ALLIANCE NSURANCE CO LTD.....APPLICANT**

**VERSUS**

**VALENTINE OKOTH WAMBUI.....RESPONDENT**

**RULING**

1. For determination before this court is the **Notice of Motion application dated 26<sup>th</sup> September, 2025**, in which the Applicant seeks the following orders:-

*a) Spent.*

*b) THAT this Honourable Court be pleased to set aside and/or vary the ruling dated 25<sup>th</sup> September, 2025 and all consequential orders and proceedings thereto.*

*c) THAT this court be pleased to grant the Applicant to prosecute the suit and the application dated 22<sup>nd</sup> July, 2025.*

*d) That the costs of this application be borne by the Claimant.*

2. The Application is based on the grounds as set out on its face and the

Supporting Affidavit of **Lydia W. Mwangi** sworn on even date. According to the Applicant, on 25<sup>th</sup> September, 2025 the court dismissed the suit and application dated 22<sup>nd</sup> July, 2025 for non-attendance by the parties. It is the Applicant's Counsel contention that on the said day, he was virtually in court until 5.00 p.m. and his efforts to gain the court's attention by raising his hand virtually, bore no fruits. The Applicant holds that he is desirous of prosecuting the suit and application as he is likely to suffer substantial loss, if he is not given a chance to be heard. He states that there will be no prejudice on the Respondent since she had not entered appearance despite service of the pleadings and the application upon her. He thus asks that the application dated 22<sup>nd</sup> July, 2025 being unopposed, be allowed as presented.

### **Analysis and Determination**

3. Having read the Notice of Motion application dated 22<sup>nd</sup> July, 2025, the Supporting Affidavit and heard the Applicant's counsel in their oral submissions, the court notes that the application is unopposed as there is an Affidavit of Service of **Timothy Maxwell Coomera** sworn on 15<sup>th</sup> October, 2025 which confirms service upon the Respondent vide her **Whatsapp Number +254 724 xxx 934**, but there is no Memorandum of appearance filed or attendance or representation to explain absence. The court further

notes that the application was filed expeditiously without any delay. The court has considered the explanation given by the Applicant and owing to the fact that there would be no prejudice to the Respondent, the court proceeds to allow the application in the following terms:-

- a) The ruling delivered and dated 2<sup>nd</sup> September, 2025 and all consequential orders and proceedings thereto be and are hereby set aside and or are varied.*
- b) The Applicant is hereby granted leave to prosecute the application dated 22<sup>nd</sup> July, 2025 and suit.*
- c) Costs of the application to be borne by its Claimant.*

It is so ordered.

**RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU**

**THIS 12<sup>TH</sup> DAY OF NOVEMBER, 2025.**

**D. O. CHEPKWONY**  
**JUDGE**