



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAROK

ELC CAUSE NO. 118 OF 2017

MARA NORTH HOLDINGS LIMITED.....PLAINTIFF

-VERSUS-

SARUNI KALAMET SENGENY.....1ST DEFENDANT

ZHONGEA ASIA AFRICA HOTELS CO LTD.....2ND DEFENDANT

THE DISTRICT LANDS REGISTRAR, NAROK COUNTY....3RD DEFENDANT

RULING

The Application before me is the Notice of Motion dated 10th July, 2018 in which the Applicant seeks for orders to set aside an order made on 30th January, 2018 dismissing the suit herein for non-attendance and the reinstatement of the order of injunction issued in the matter on 16th September, 2015.

The Application was based on the grounds that the suit was dismissed on the hearing date as no notice was served upon the applicant prior to the said dismissal and that the court did exercise its discretion to set aside the order of dismissal.

The Application was further supported by the Affidavit of Daniel Sinoyia Muli where he deponed to the grounds that as stated herein above and further that it shall serve the interest of justice if the suit be determined on merit and unless the orders sought are granted, the applicant shall suffer irreparable loss and damages.

The Application was heard ex parte after the court satisfied itself that there was proper service on the respondent and since they elected not to respond, the Application remains unchallenged and in the circumstance, I will allow the application in terms of prayers 2 and 3 of the notice of motion dated 10th July, 2018 and accordingly order that the order of dismissal dated 31st January, 2018 be set aside.

Each party to bear its costs.

DATED, SIGNED and DELIVERED in open court at **NAROK** on this **4th** day of **December, 2018**

Mohammed Noor Kullow

Judge

4/12/18

In the presence of:

CA:Chuma

Plaintiff:present

N/A for the Defendant

Mohammed Noor Kullow

Judge

4/12/18