

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAROK

ELC CAUSE NO. 327 OF 2017

FORMERLY KISII ELC NO. 88 OF 2016

OLE RAPANYA MITIMBAO.....PLAINTIFF

-VERSUS-

NTUU KIRIONKI.....DEFENDANT

RULING

The Applicant has moved the court by way of a Notice of Motion dated 8th November, 2017 and brought under Article 159 of the constitution, section 1A, 1B of the Civil Procedure Act, Order 12 Rule 7 and under order 51 Rule 1 of the Civil Procedure Rules.

In the Application the Applicant seeks setting aside the order of the court dated 1st November, 2017 dismissing the Applicant's suit **NAROK ELC NO. 327 OF 2017**. The Application is grounded on the basis that the Applicant was not aware that the suit herein was for hearing on the date it was dismissed and that the Plaintiff's absence was unintentional and that he will suffer prejudice as he may lose.

I have read the Application before me and may I point out that the Application is unopposed as the same was not contested by the Respondents. Secondly, the Applicant had filed the same without undue delay and from the record I do observe that no Notice to Show Cause was served upon the plaintiff prior to the dismissal of the suit.

In view of the above I will allow the application dated 8th November, 2017 with no orders as to costs.

Dated, Signed and Delivered in open court at **NAROK** on this **22nd** day of **December, 2017**

Mohammed Noor Kullow

Judge

In the presence of:-

Mr Langat holding brief for the plaintiff

N/A for the defendant

Mohammed Noor Kullow

Judge

22/12/17