

REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS COURT OF KENYA

AT NAIROBI

APPEAL NO. 34 OF 2019

(Formerly High Court Civil Appeal No. 508 of 2019)

AGRICULTURAL SOCIETY OF KENYA.....APPELLANT

VERSUS

BENJAMIN K. KWAMBAL.....1ST RESPONDENT

FAITH MUTHEE t/a COMPLIANCE AUCTIONEERS.....2ND RESPONDENT

RULING

1. The application before me is the notice of motion of 4th June 2021 by the 1st Respondent/Applicant. The Respondent seeks the dismissal of the Appeal for want of prosecution. The application is premised on the grounds that there has been no prosecution of the appeal since it was filed as the Appellant enjoys stay orders. The Appellant on its part asserts that there is intent to prosecute the appeal and that what is awaited are proceedings from the Subordinate Court.

2. The appeal was filed in April 2019 and has been the subject of a series of sideshows brought on by action before the High Court instead of submitting to this forum for the determination of the dispute herein. As such the delay is largely attributable to the Respondent, his servants and/or agents and as such the application by the Respondent is self-defeating and only suitable for dismissal as I hereby do. Motion is dismissed with costs to the Appellant.

3. The matter to be set down for pretrial directions before any other Judge of the Court on 28th September 2021 as I have already formed an opinion on the matter due to the shenanigans I have seen and as such recuse myself.

It is so ordered.

DATED AND DELIVERED AT NAIROBI THIS 21ST DAY OF SEPTEMBER 2021

Nzioki wa Makau

JUDGE