



**IN THE REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**CAUSE NO. 1003 OF 2010**

**(Before Hon. Lady Justice Hellen S. Wasilwa on 5<sup>th</sup> February 2018)**

**THOMAS MBOGA .....CLAIMANT**

**VERSUS**

**KIPKEBE LIMITED .....RESPONDENT**

**RULING**

1. The Application before Court is dated 21<sup>st</sup> June 2016. The Applicant seeks orders to dismiss this case for want of prosecution. The Claimant Respondents were served with this application and they appeared before this Court on 21<sup>st</sup> July 2016. They were given 7 days to file their response. They never filed as advised.
2. The Respondent Applicants therefore proceeded to fix this application for hearing and served the Claimant with a hearing notice on 10<sup>th</sup> October 2017 for hearing on 5<sup>th</sup> December 2017. On 5<sup>th</sup> December 2017, the Claimant though served, failed to appear.
3. The Respondent Applicants have averred that this matter was last in Court on 2<sup>nd</sup> March 2012 for hearing but the case was adjourned at the instance of the Claimant's Advocate who was held up in another matter. The Court directed that parties fix a fresh date at the registry. One year down the line, when this application was filed on 22<sup>nd</sup> June 2016, the Claimant had never fixed a hearing date or taken any steps to prosecute the matter.
4. The Applicants contend that as the matter stands, the Claimant are disinterested in prosecuting this matter and they therefore want the application to dismiss this case for want of prosecution allowed.
5. I have considered the Applicant's averments and the fact that the Claimant is ever disinterested in prosecuting the current application.
6. I do concur with the Respondents that the Claimants are not interested in prosecuting this claim. They have not taken any steps to fix the case for hearing or demonstrated to Court any difficulties they may have encountered in doing so. I therefore allow their application and dismiss this claim for want of prosecution with costs to the Respondent Applicants.

**Read in open Court this 5<sup>th</sup> day of February, 2018.**

**HON. LADY JUSTICE HELLEN WASILWA**

**JUDGE**

**In the presence of:**

No appearance for Parties