



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**CAUSE NO. 2134 OF 2012**

**(Before Hon. Justice Hellen S. Wasilwa on 30<sup>th</sup> May, 2018)**

**JULIUS NJAGI MBUI.....CLAIMANT**

**VERSUS**

**KENYA NUT COMPANY LIMITED.....RESPONDENT**

**RULING**

1. The Application before Court is the Application by the Claimant dated 1.12.2027 seeking the reinstatement of the Claimant's Notice of Motion dated 1.11.2017 which was seeking reinstatement of suit and which was dismissed for want of prosecution.
2. The Application is brought under Section 3A of the Civil Procedure Act Cap 21 Laws of Kenya and under Order 12 Rule 7, Order 51 Rule 1 of the Civil Procedure Rules.
3. The Applicant sought orders that the order made on 14.11.2017 which dismissed his Notice of Motion dated 1.11.2017 for want of prosecution be set aside and the said application be reinstated for hearing.
4. The application is based on the following grounds that the Counsel for the Applicant was before Court No. 2 at 9 am but the Court had not started sitting. She avers that her matter was called soon thereafter after she had rushed to the next Court to attend to another matter. That in the interest of justice she seeks that the application be allowed.
5. The Respondents opposed this application stating that the orders of the Court was in accordance with the law.
6. The averments notwithstanding, in view of the fact that the Applicant should not be punished for mistake of his Counsel, I exercise my discretion and allow the application as prayed.

Dated and delivered in open Court this **30<sup>th</sup> day of May, 2018.**

**HON. LADY JUSTICE HELLEN WASILWA**

**JUDGE**

**In the presence of:**

Miss Njiiri for Claimant

Respondent – Absent