



Rambo Kenya Limited v Uhuru Highway Development Limited & another (Civil Suit 1044 of 2000) [2024] KEHC 2871 (KLR) (Commercial and Tax) (21 March 2024) (Ruling)

Neutral citation: [2024] KEHC 2871 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
CIVIL SUIT 1044 OF 2000
A MABEYA, J
MARCH 21, 2024**

BETWEEN

RAMBOO KENYA LIMITED PLAINTIFF

AND

UHURU HIGHWAY DEVELOPMENT LIMITED 1ST DEFENDANT

THE RECEIVER-GRAND REGENCY HOTEL 2ND DEFENDANT

RULING

1. Before me is the plaintiff's application dated 11/1/2024. The same is brought, inter alia, under sections 1A, 1B, 3A and 95 of the *Civil Procedure Act* and Order 17 Rule 2(6) of the *Civil Procedure Rules*.
2. It seeks the setting aside of the order of 18/10/2023 that dismissed the suit for want of prosecution. The grounds therefor are; that the matter had been certified ready for hearing on 23/11/2020 and fixed for hearing on 8/2/2021. However, it was not cause listed on the said 8/2/2021. The plaintiff's advocates tried unsuccessfully to have the same listed for hearing vide letters dated 8/2/2021, 21/6/2021 and 30/8/2021 respectively.
3. That the matter came up severally for Notice to Show Cause on 21/2/2023, 1/8/2023 and 9/8/2023 but none of the notices were served upon the plaintiffs. That the Advocates file was misplaced towards the end of 2022 whereby the matter remained in Limbo for quite some time until after 18/10/2023 when they discovered that it had been dismissed.
4. The plaintiff filed its submissions which I have considered. The application was served but not opposed.
5. I have considered the averments in the supporting affidavit of Eva Kahiti sworn on 11/1/2024. I have considered the reasons advanced for the failure to prosecute the suit and I am satisfied that the same



are plausible. The loss of the advocates file during the relocation of their offices in 2022 as deponed to may have led to the long period when the matter remained in limbo.

6. Further, I have perused the record and have found that the only notice to show cause that was served upon the plaintiff's advocates is the one for 6/11/2020 and not subsequently.
7. In the premises, I am satisfied that cause has been shown why the suit should not have been dismissed. I allow the application and hereby set aside the order for dismissal and reinstate the suit for hearing on merit. The costs shall abide the outcome of the suit.

It is so ordered.

DATED AND DELIVERED AT NAIROBI THIS 21ST DAY OF MARCH, 2024.

A. MABEYA, FCI Arb

JUDGE

