THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA

M.A. No. 091 of 2022

(Arising from M.A No. 036 of 2022)

(Arising from Court of Appeal Civil Appeal No. 21 of 2017)

(All arising from Civil Suit No. 008 of 2009

CONCY EJON :: APPLICANT

VERSUS

FILDA EJON :: RESPONDENT

BEFORE: HON. JUSTICE DUNCAN GASWAGA

RULING

[1] This is an application brought under Order 9 rule 22, Order 52 rule 1 & 2 CPR, Section 98 CPA seeking for orders that; *the dismissal order of M.A No. 036 of 2022 be set aside, M.A No. 036 of 2022 be reinstated and costs of the application be provided for.*

[2] The grounds for the application were contained in the affidavit of Mrs. Concy Ejon and they are that; that she left Kampala at around 1:00am to attend the court proceeding scheduled for 9:00am in Lira High Court; unfortunately, the car broke down in Nakasongola and the mechanic was only able to fix it at around 5:00am from where she proceeded to Lira but arrived when the application had already been dismissed; upon communicating to her lawyers she was informed that they were only aware of the court case fixed on 27/09/22 and it was already late for them to attend court; that she has a good case that ought to be heard on its merits;

no injustice will be occasioned to the respondent if this application is reinstated.

[3] This application raises one issue to wit;

Whether the application satisfies the grounds for reinstatement of a suit?

[4] It was submitted for the applicant that the law under which the application is brought is to the effect that sufficient cause for non-appearance when the suit was called on for hearing must be demonstrated to the satisfaction of court before court can make an order setting aside the dismissal.

[5] It was further submitted that the applicant's affidavit demonstrates grounds that suffice as sufficient cause for non-appearance to wit; breakdown of the applicant's motor vehicle around Nakasongola District where she had to wait for it to be fixed since there was no other available means of transportation which made her get to the court late when the application had already been dismissed. That the applicant's lawyer missed attendance because there was miscommunication about the date which eventually led to an erroneous non-appearance. The applicant then prayed that having exhibited high interest in pursuing her application but was affected by miscommunication and breakdown of her motor vehicle, that court be pleased to find that the applicant has fully demonstrated sufficient cause and thereby set aside the order dismissing M.A No.036 of 2022 and reinstate the same with costs to the applicant.

[6] In an application of this nature, the burden to prove sufficient cause squarely lies on the applicant. See **Eric Tibebaga Vs**

Fr. Narsensio Begumisa CA No. 18 of 2001 (Unreported). There is no objection to the application.

[7] I find the applicant's reasons of the breakdown of her motor vehicle, miscommunication of the date of the case and the consequential failure to attend as sufficient just cause to warrant reinstatement of the application (M.A No. 036 of 2022). Accordingly, this application being meritorious is hereby granted.

[8] **In the circumstances therefore, M.A No. 036 of 2022 is hereby reinstated. The costs of this application shall be provided for.**

Dated, signed and delivered at Lira this 22nd day of August, 2023.

Duncan Gaswaga

JUDGE