

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**CIVIL DIVISION**  
**MISCELLANEOUS CAUSE No. 548 OF 2012**  
**(Arising from Civil Suit No. 625 of 2004)**

**OGWANG OLEBE FRANCIS ::::::::::::::: APPLICANT/PLAINTIFF**

**- VERSUS -**

**STANBIC BANK UGANDA LIMITED :: RESPONDENT/DEFENDANT**

**BEFORE: HON. MR. JUSTICE STEPHEN MUSOTA**

**RULING**

This is an application brought by Notice of Motion to reinstate Civil Suit No. 625 of 2004 between the applicant as plaintiff and Stanbic Bank (U) Ltd as defendant and an order for costs. The suit was dismissed under Order 17 rule 6 (1) of the Civil Procedure Rules by Justice V.F. Musoke Kibuuka on 30<sup>th</sup> October 2009. This application is brought under S. 33 of the Judicature Act, S. 98 of the Civil Procedure Act, order 9 rule 23 and order 52 rule 1, 2 & 3 of the Civil Procedure Act.

Both Mr. Katumba for the applicant and Mr. Walukagga for the respondent filed written submissions in support of their respective cases. I have considered the application as a whole and the respective submissions. I have noted that the dismissal of Civil Suit No. 625 of 2004 was done by the learned Judge under Order 17 rule 6 (1) of the Civil Procedure Rules because

the same had spent more than 2 years without any steps being taken by the parties to have it heard and determined.

There is no legal provision which mandates this court to reinstate a suit dismissed under such circumstances. The remedy for the plaintiff lies in Order 17 rule 6 (2) of the Civil Procedure Rules which provides that:

***“2. In such a case the plaintiff may subject to the law of Limitation bring a fresh suit”***

The dismissed suit under Order 17 rule 6 (1) of the Civil Procedure Rules cannot in law be reinstated. It is surprising that this application was brought inter alia under the whole Order 9 rule 23 of the Civil Procedure Rules as if the suit had been wholly or partially dismissed under Order 9 rule 22 of the Civil Procedure Rules when only the defendant appeared and the plaintiff did not appear.

Consequently this application stands dismissed with costs. Because of the careless manner in which this application was filed, I will order that the costs be met by learned counsel personally.

**Stephen Musota**

**J U D G E**

**02.02.2015**

Mr. Walukagga for respondent present.

Court Clerk: Kauma Jolly.

**Court:-**

Ruling delivered by the Ag. Deputy Registrar Festo Nsenga, in the presence of Mr. Walukagga Isaac for the respondent this 2<sup>nd</sup> day of February, 2015.

**Festo Nsenga**

**Ag. DEPUTY REGISTRAR**

**02.02.2015.**