

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT FORT PORTAL
CIVIL APPEAL NO. 0016 OF 2018
(ARISING FROM FPT – 00 – CV – MC – 138 OF 2018)

5 **NYAMWESI KULE ::: APPELLANT**

VERSUS

KAMBALE KASUNGU DESIRE ::: RESPONDENT

BEFORE HON. JUSTICE VINCENT WAGONA

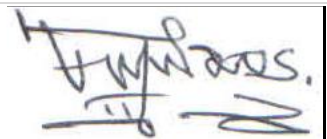
RULING

10 This was an appeal against the decision of His Worship Kagwa John Francis, the Chief Magistrate at Fort Portal delivered on 6th September 2018. The Memorandum of Appeal was filed on 5th October 2018 and endorsed by court on 4th October 2018.

15 Since then, the appellant has not made any effort to have the appeal progressed. He was unrepresented and did not attend court when the case was fixed with a view of progressing the matter. It is now more four years since the last action was done by the appellant on this matter.

20 On the 8th day of March 2023 when the case was fixed by court on its on motion for mention, Counsel Bwiruka Richard for the Respondent asked court to have the case dismissed for want of prosecution.

DECISION:



Order 43 Rule 31 provides for dismissal for want of prosecution and states that:

(1) **“Where there has been undue delay in the hearing of an appeal, the registrar may obtain the directions of a judge for the listing of the appeal at the next ensuing sessions of the High Court.”**

5 (2) **“Notice of the listing shall be served in such manner as the judge may think fit upon the appellant and respondent or their advocates, and upon the hearing thereof the court may order the dismissal of the appeal for want of prosecution or may make such other order as may seem just.”**

10 Under Order 43 rule 31 of the Civil Procedure Rules, a judge who is faced with an appeal that has remained unprosecuted for a long time, may either dismiss the appeal for want of prosecution or make any other order as he or she thinks just provided that the parties have been notified in accordance with Order 43 Rule 31 (2) of the Civil Procedure Rules.

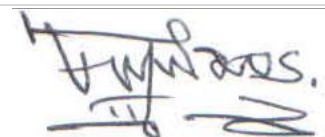
15 Order 43 Rule 14 of the Civil Procedure Rules provides for dismissal of appeal for appellant’s default and states that;

(1) **“Where on the day fixed, or on any other day to which the hearing may be adjourned, the appellant does not appear when the appeal is called on for hearing, the court may make an order that the appeal be dismissed.”**

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In the present appeal, since 4th October 2018, no specific step has been taken by the parties to have the appeal heard. It is more than four years since the last action was done. The appellant was unrepresented and did not attend court when the case was

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fixed with a view of progressing the matter. In the premises, Civil Appeal No. 0016 of 2018 is hereby dismissed under the above provisions with costs awarded to the Respondent.

It is so ordered.



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Vincent Wagona
High Court Judge
FORT-PORTAL
27.02.2023

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