

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
[LAND DIVISION]
MISCELLANEOUS APPLICATION NO.893 OF 2021
(ARISING FROM CIVIL SUIT NO. 67 OF 2014)

JOSHUA OGWAL:.....APPLICANT

VERSUS

1. AKRIGHT PROJECTS LTD

2. ANATOLI KAMUGISHA :.....RESPONDENTS

RULING

BEFORE: HON MR. JUSTICE HENRY I. KAWESA

This application was brought by notice of motion under **Section 98 of the Civil Procedure Act Cap. 71; Section 33 of the Judicature Act Cap. 13; O.9 r. 18, O.52 r.1,2, & 3 of the Civil Procedure Rules S.I 71-1.**

The application seeks orders that:

1. The dismissal order issued by this Honourable Court on 18th February, 2021 with respect to High Court Civil Suit **No.67**

of 2014: Joshua Ogwal versus Akright Projects Ltd & Anor

be set aside and the suit reinstated and heard on merit.

2. Costs of this application be in the cause.

The grounds of the application are supported by the affidavit of M/s. Martin Kakuru of M/s Ligomarc Advocates.

There is an affidavit of service on record indicating that the respondent was served the application and submissions of the applicant. However, the respondent did not file a reply. Accordingly, this Court shall proceed to determine the application *ex parte*.

Summary Resolution

I have noticed that the order dismissing Civil Suit No.67 of 2014 was made under **O.9 r.17 and O.17 r.6 of the Civil Procedure Rules SI 71-1.**

As regards the latter Order and Rule, it is trite that a suit dismissed thereunder cannot be reinstated, but the Plaintiff may, subject to the law of limitation, file a fresh suit (**Kibugumu**

Patrick versus Aisha Mulungi & Anor H.C.M.A No.455 of 2014;
Cimtel Integrators Africa Ltd versus NSSF HCMA No.772 of
2016).

Since the suit was dismissed partly under **O.17 r.6 of the Civil Procedure Rules**, I find that it cannot be reinstated. The application is, therefore, hereby dismissed summarily.

No costs awarded.

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Henry I. Kawesa

JUDGE

15/03/22