



Case Number:	Civil Suit 5 of 2021
Date Delivered:	26 Nov 2021
Case Class:	Civil
Court:	High Court at Vihiga
Case Action:	Ruling
Judge:	William Musya Musyoka
Citation:	Wilson Commernder Madasia v KTDA Management Services Limited & 2 others [2021] eKLR
Advocates:	-
Case Summary:	-
Court Division:	Civil
History Magistrates:	-
County:	Vihiga
Docket Number:	-
History Docket Number:	-
Case Outcome:	-
History County:	-
Representation By Advocates:	-
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-

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**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT VIHIGA**

**CIVIL SUIT NO. 5 OF 2021**

**WILSON COMMENDER MADASIA.....PLAINTIFF**

**VERSUS**

**KTDA MANAGEMENT SERVICES LIMITED.....1<sup>ST</sup> DEFENDANT**

**MUDETE TEA FACTORY LIMITED.....2<sup>ND</sup> DEFENDANT**

**JAVAN M. MUKAVALE.....3<sup>RD</sup> DEFENDANT**

**RULING**

1. The Motion, dated 7<sup>th</sup> September 2020, by the 3<sup>rd</sup> defendant, seeks dismissal of the instant suit for want of prosecution. It is averred that since 21<sup>st</sup> June 2018, when a ruling was delivered herein, no action had been taken by the plaintiff hence the Motion...

2. The defendant, by way of response, says that he instructed his Advocates to file appeal. The said Advocates then wrote a letter to court, asking for proceedings. The letter is dated 22<sup>nd</sup> June 2018. He says that that was the last time he heard from them. He then instructed another firm of Advocates, who placed a notice of change of Advocates in court on 16<sup>th</sup> October 2019, but still took no step.

3. The record before me is clear, that the last substantive step in this matter was delivery of the ruling on 18<sup>th</sup> June 2018. Since then no step has been taken to advance the matter. Requesting for proceedings, which request is not followed up thereafter, and filing a notice of change of Advocates and then going back to sleep are not adequate. The plaintiff has clearly lost interest in the matter. Between 18 June 2018 and 12<sup>th</sup> October 2020, when the Motion was lodged in court, is some twenty-four months, or nearly two years and a half. A party keen on prosecuting their suit ought to have taken some decisive step to move the case forward.

4. There is a clear case for want of prosecution. Consequently, I am persuaded that there is merit in the Motion, dated 7<sup>th</sup> September 2020, and I allow the same. The suit is hereby dismissed. The 3<sup>rd</sup> defendant shall have the costs.

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT KAKAMEGA THIS .....26<sup>th</sup> ..... DAY OF  
.....NOVEMBER....., 2021**

**W. MUSYOKA**

**JUDGE**



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