

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
DAR ES SALAAM DISTRICT REGISTRY**

AT DAR ES SALAAM

CIVIL CASE NO. 28 OF 2019

**1. HI-BRO'S CANVAS & TENTS LTD.....PLAINTIFF
2. PARVES ABDULHUSSEIN HIRJI.....PLAINTIFF**

VERSUS

NIMROSE PARVES HIRJI..... DEFENDANT

RULING

This is a backlog case filed by the plaintiffs on 13/2/2019. It took the court almost a year to sort out all preliminary matters before it could go for an *ex-parte* proof which was fixed to commence on 23/4/2020. The hearing could not however proceed for various reasons from that date to date. It is also evident from the records that, the last time the plaintiffs' counsel appeared in court was on 16/11/2021, and no apparent reason justifying their absence in court. It is the legal position that parties to the suit are required to attend the court either in person or by their advocates. The absence of a party on a date scheduled for hearing without sufficient cause has its consequences under Rule 2 of Order IX of the CPC Cap 33 RE 2019 states:

"Where neither party appears when the suit is called on for hearing the court may make an order that the suit be dismissed."

Given the explained situation above, this court is of the view that the plaintiff has lost interest on the matter and proceed to dismiss the same

for want of prosecution under Order IX Rule 2 of the Civil Procedure Code, with no order as to costs.



E. Y Mkwizu
Judge
28/2/2023

