

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CIVIL DIVISION

HIGH COURT CIVIL CASE NO. 584 OF 2008

ISSAC MUTUKU NZUMA.....1ST PLAINTIFF/APPLICANT

ESTHER MWETHYA MUTUKU.....2ND PLAINTIFF/APPLICANT

VERSUS

CHRISTINE WAGUTHI KARIUKI.....DEFENDANT/RESPONDENT

RULING

1. The application dated 14th December, 2017 seeks orders that the order issued by this court on 22nd June, 2016 dismissing the Plaintiffs suit for want of prosecution be reviewed and set aside.
2. Secondly that the suit be reinstated for hearing and determination on merits.
3. It is stated in the grounds and the affidavit in support of the application that the suit herein was dismissed on 22nd June, 2016 for want of prosecution without service of Notice to Show Cause. That the deceased died in a road traffic accident and the parties were engaged in negotiations with a view to settling the matter.
4. The application was heard *ex parte* by way of written submissions. There was no entry of appearance by the Defendant.
5. I have considered the application and the submissions made.
6. I have perused the court file. There is no evidence of service of Notice to Show Cause before the dismissal of the suit. Order 17 rule 2(1) was therefore not compiled with.
7. Consequently, I allow the application as prayed.

Dated, signed and delivered in Nairobi this 28th day of March, 2019

B. THURANIRA JADEN

JUDGE