



**REPUBLIC OF KENYA**

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

**ELC SUIT NO 158 OF 2001**

**DAVID KINJA .....PLAINTIFF**

**VERSUS**

**JOSEPH KAIBI & GEOFFREY M'ITARU.....DEFENDANTS**

**RULING**

Parties came to Court on 24/02/2015 to show cause why this suit should not be dismissed for want of prosecution in terms of Order 17, CPR.

The Plaintiff's Advocate Mr. Anampiu, explained that the 1st Defendant had died and had not been substituted. Mrs Ntarangwi for the 2nd Defendant opined that the Plaintiff, as this suit belongs to him, ought to have substituted the deceased 1st defendant. Mr. Mutunga, for the 1st Defendant, intimated that he intended to file an application to cease acting for the 1st defendant.

This is a land case. The parties are neighbours and relatives. I opine that it would be in the interests of justice to allow the case to be heard on its merits, unless the parties once again refused to expedite the hearing and determination of the case.

**I rule that the parties have shown to the satisfaction of the Court that this suit should not be dismissed.**

**It is so ordered.**

Delivered in open Court at Meru this **24th day of February, 2016** in the presence of:-

CC: Lilian/ Daniel

Ayub Anampiu for the Plaintiff

Mrs. Ntarangwi for the 2nd Defendant.

**P. M. NJOROGE**

**JUDGE**