



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

MISC. APPLICATION NO 83 OF 2010

**IN THE MATTER OF AN APPLICATION FOR LEAVE TO FILE JUDICIAL REVIEW
PROCEEDINGS**

FOR ORDERS OF CERTIORARI, PROHIBITION AND MANDAMUS

AND

**IN THE MATTER OF THE LAW REFORM ACT, CAP 26, THE LAND CONSOLIDATION
ACT,**

CAP 83, LAWS OF KENYA AND ORDER 1 111 OF THE CIVIL PROCEDURE RULES:

AND

**IN THE MATTER OF THE PROCEEDINGS, FINDINGS AND DECISION MADE ON 28.05.2010
IN**

**OBJECTION NO. 1774. OVER PARCEL OF LAND AND NO. 901 SITUATE IN
AKIRANGGONDU**

'A' ADJUDICATION SECTION WITHIN IGEMBE NORTH DISTRICT.

BETWEEN

M'IRIYA BAARIU.....EX PARTE APPLICANT

VERSUS

IGEMBE NORTH AND SOUTH DISTRICT LAND

ADJUDICATION AND SETTLEMENT OFFICER.....1ST RESPONDENT

ATTORNEY-GENERAL.....2ND RESPONDENT

THAINE PANCRAS LIMBINE.....INTERESTED PARTY/APPLICANT

RULING

1. This application, stated to be predicated upon order 50 Rule 1, Civil Procedure Rules and Order 17

Rules 2 (1) and 2 (3), Procedure Rules, is dated 6th November, 2014. The application seeks orders:-

1. That the Plaintiff's suit be dismissed for want of prosecution.

2. That the costs and incidentals to this application be provided for;

2. The application has the following grounds:-

i. That the exparte applicant has failed to take any action since he filed this suit.

ii. That the ex-parte applicant is enjoying the suit land to the detriment of the Interested Party.

iii. That the exparte applicant will not suffer any prejudice.

3. The application was heard on 21/04/2016.

4. Mr. Lekoona, Advocate for the Interested Party, told the Court that he wanted the suit dismissed for want of prosecution as required by Order 17 of the Civil Procedure Rules. He told the Court that no step as envisaged by Order 17, CPR, had been taken for over 1 year.

5. Mr. Manases Kariuki, the Advocate for exparte applicant told the Court that he had established from his client's brother that he had died over 3 years ago. He told the Court that he had no client.

6. I note that the applicant did not give any reason as to why the suit should not be dismissed. **I am, therefore, satisfied that the Defendant had not shown any cause as to why the suit should not be dismissed.**

7. In the Circumstances, this suit is dismissed. Costs are awarded to the Interested Party.

It is so ordered.

DELIVERED IN OPEN COURT AT MERU THIS 18TH DAY OF MAY, 2016 IN THE PRESENCE OF:

CC: Daniel/Lilian

P.M. NJOROGI

JUDGE