

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

PETITION NO. 15 OF 2015

DAVID MWEU CHEBURET & 17 OTHERS PETITIONERS

VERSUS

THE COUNTY GOVERNMENT OF NAKURU 1ST RESPONDENT

HON. KINUTHIA MBUGUA 2ND RESPONDENT

THE ATTORNEY GENERAL 3RD RESPONDENT

RULING

Before court is the Notice of Motion dated 4/6/2016 seeking orders as follows

“1. THAT the Honourable Court does in exercise of its inherent jurisdiction do dismiss the suit herein for want of prosecution.

2. THAT the Petitioners do pay the costs of this application”

The application was set down for hearing on 19/7/2016. The applicants were properly served through their lawyer **Messrs Ngakaka S. M & E Advocates**. Proof of service is evidence by the Affidavit of Service filed in court on 14/7/2016 as well as a copy of the Notice of Motion duly stamped by the Advocate’s firm.

As submitted **Mr. Okumu** counsel for the 1st and 2nd Respondents in this Petition was filed at Nakuru High Court on 25/3/2015. Ex Parte orders were granted. The Respondents having been served and filed their replying affidavit on 7/5/2015. From that date more than a year has elapsed and the Petitioners have taken no steps to prosecute the suit. They appear to be resting comfortable with the Ex Parte orders. The fact that the Petitioners have no further interest in this matter is evident from the fact that even after being served well in advance of the hearing date properly with this Notice of Motion and the hearing date, neither the Petitioners nor their appointed advocate responded to the motion and/or defend/oppose the same. Only the 3rd Respondent the Hon. Attorney General appeared and voiced support for the motion.

From the above I am satisfied that the filing of the petition was a mere ploy to obtain Ex Parte orders. The suit cannot remain active indefinitely. I therefore allow this application and I do hereby dismiss the petition or want of prosecution. No orders on costs.

Dated in Nakuru this 29th day of July, 2016

Maureen Odera

Judge

Mr. Okumu for 1st and 2nd Respondents

No appearance by Petitioner