



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

ENVIRONMENT AND LAND CASE NO. 122 OF 2013

M'LINTARI WA MACHURAPLAINTIFF

VERSUS

M'IGANDURA M'NABEA KARUNYA.....1ST DEFENDANT

LAND ADJUDICATION OFFICER TIGANIA DISTRICTS.....2 ND DEFENDANT

HON THE ATTORNEY GENERAL3RD DEFENDANT

R U L I N G

1. The Court directed the parties to come to Court on 30/08/2016 to show cause why this suit should not be dismissed for want of prosecution in terms of Order 17 of the Civil Procedure Rules, 2010.
2. The Court had noted that since 29th July, 2013 no step had been taken until 10th February, 2016.
3. Mr. Mwanzia holding brief for Mr. Rimita for the Plaintiff urged this Court not to dismiss the suit because the Plaintiff had fully complied with Order 11, CPR and was willing to prosecute his case immediately.
4. Mr. Kimathi for the 2nd and 3rd Defendants told the Court that he was not aware that the matter was coming up in Court. He asked the Court to adjourn the matter in view of the fact that the 1st Defendant was not represented.
5. I do note that Mr. Kimathi for the 2nd and 3rd Defendants was in Court on 31/05/2016 when the parties were directed to come to Court to show cause why this suit should not be dismissed for want of prosecution. He, indeed, participated during that day's proceedings.
6. I disagree with the submission by the Plaintiff's Advocate that the Notice to Show Cause why this suit should not be dismissed for want of prosecution was issued prematurely. The Court record is pellucid that no step was taken between 29th July, 2013 and 10th February, 2016. Nevertheless, the Plaintiff has demonstrated his earnest and uncontroverted desire to prosecute his case.
7. I do find that the Plaintiff has shown to the satisfaction of this Court that this suit should not be dismissed. In the Circumstances, this suit is not dismissed.
8. It is so ordered.

DELIVERED IN OPEN COURT AT MERU THIS 31ST DAY OF AUGUST , 2016 IN THE PRESENCE OF:-

CC: Lilian/Daniel

Rimita for Plaintiff

Defendants not in Court

P. M NJORGE

JUDGE