



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

MISC APPLICATION NO. 64 OF 2009

IN THE MATTER OF AN APPLICATION TO APPLY FOR ORDERS OF CERTIORARI AND PROHIBITION

REPUBLIC.....APPLICANT

VERSUS

LAND ADJUDICATION OFFICER -TIGANIA EAST.....RESPONDENT

JOANINA KARUKE.....INTERESTED PARTY

LYDIA MUKUBU NTIKA.....EX PARTE APPLICANT

R U L I N G

1. This application is predicated Upon Order 17 Rule 2(3) of the Civil Procedure Rules, 2010. It has the following grounds:-

- 1. THAT the Court do certify the matter as urgent.**
- 2. THAT the Honourable Court do notify the ex-parte applicant to show cause why the suit should not be dismissed for want of prosecution.**
- 3. THAT the Honourable Court do dismiss the suit for want of prosecution should the ex-parte applicant either fail to show cause or the reasons given thereto are insufficient.**
- 4. THAT the costs of the application and the suit be awarded to the interested party herein.**

2. The application is supported by the affidavit of JOANINA KARUKU sworn on 27/09/2016 and has the following grounds:-

- I. That the Interested Party and ex parte applicant are both wives of Joseph Ntika (Deceased) who prior to his death was registered holder of F/No. 602 Antuamburi Adjudication Section. Subsequently, the land was shared among the parties herein pursuant to adjudication proceedings as provided under Cap. 283.**
- II. The Ex-parte applicant obtained leave to apply for orders of certiorari and prohibition on 3rd September, 2009, which leave was to operate as a stay.**

III. That more than 7 years since the said leave was issued, the ex-parte applicant has not taken any steps to prosecute her application.

IV. That the delay is absolutely inordinate and as such the said application should be dismissed for want of prosecution.

3. Miss Kungu, for the Respondent, and holding brief for Mr. Kioga, for the Interested Party asked the Court to dismiss the suit as prayed in the application.

4. Miss Kungu told the Court that she and Mr. Kioga were relying on the grounds on the face of the application and on the apposite Supporting Affidavit. She told the Court that all parties were aware of today's date for hearing of the application interpartes. I agree.

5. I find that the Exparte Applicant had for many years failed to prosecute her suit and that in terms of the provisions of Order 17, Rule 2, this Court is satisfied that this suit should be dismissed.

6. In the circumstances, this suit is dismissed.

7. Costs are awarded to the Interested Party.

8. It is so ordered.

DELIVERED IN OPEN COURT AT MERU THIS 20TH DAY OF DECEMBER, 2016 IN THE PRESENCE OF :-

CA:Daniel/James

Kieti for Respondent

P.M. NJOROGE

JUDGE