

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MACHAKOS
ELC CASE NO.176 OF 2008

HAYERU MASHARIN PLAINTIFF

VERSUS

THOMAS MEOLY1ST RESPONDENT

MARGARET MEOLY 2ND RESPONDENT

R U L I N G

1. The Motion dated 24.9.2013 was fixed for hearing on 10.12.2014. The same came for hearing and the Respondent/Plaintiff Advocate was served but did not attend court nor did the Plaintiff himself attend court. The Respondent has never filed any reply in opposition to the application since 2013 when it was lodged and served. The motion would therefore be determined as unopposed.
2. The Applicant case is that the instant suit was filed on 5.7.2005 and defence was filed on 22.7.2005. The pleadings were closed on 5.8.05. The matter was last in court on 8.10.08 before Osiemo Judge when he ordered same to be transferred to Machakos for hearing and determination. Since then, the Plaintiff has never fixed matter for hearing prompting the filing of the instant motion.
3. The above averments are unrebutted and the court file record confirms the position as deponed. The matter was last in court on 8.10.08. Order 17 Rule 1 (3) Civil Procedure Rules (2010) allows a party to move court for dismissal of suit where no step by either party has been taken within 12 months.
4. In the premises, the court makes the following orders:

1. The Notice of Motion dated 24.9.2013 is granted in terms of prayers 1 and 2.

Dated and Delivered at Machakos, this 13th day of March, 2015.

CHARLES KARIUKI

JUDGE