



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KERUGOYA**

**ELCA CASE NO. 54 OF 2013**

BEATRICE WAMBUI GIKUNJU ..... 1<sup>ST</sup>  
APPELLANT

ROSE WAMBUI GIKUNJU ..... 2<sup>ND</sup>  
APPELLANT

VERSUS

SAMSON MBUI OBADIAH KOIGI ..... 1<sup>ST</sup>  
RESPONDENT

ALBERT GIKUNJU NJERU ..... 2<sup>ND</sup>  
RESPONDENT

**(AN APPEAL FROM THE JUDGMENT DELIVERED ON 13<sup>TH</sup> APRIL 2010 BY HON. E.M. NYAGA – R.M. AT KERUGOYA PRINCIPAL MAGISTRATE’S COURT CIVIL CASE NO. 166 OF 2009)**

**RULING**

This is in respect to the 1<sup>st</sup> Respondent’s application dated 30<sup>th</sup> August 2012 seeking the dismissal of this appeal for want of prosecution. It is supported by the 1<sup>st</sup> respondent’s affidavit in which he has deponed that although this appeal was filed in May 2010, the appellants have taken no steps to prosecute it.

In his submissions at the hearing of this application, Mr. Mwai for the 1<sup>st</sup> respondent told the Court that although served with the application, the appellants did not appear to canvass the same.

I have considered the application.

The record shows that this appeal was admitted to hearing by ***Warsame J.*** (as he then was) at the High Court Embu on 7<sup>th</sup> March 2011. The appellants were previously represented by Maina Kagio advocate who withdrew from acting for them on 3<sup>rd</sup> August 2012 hence necessitating service upon the appellants in person who, as I have indicated above, did not appear at the hearing of this application nor appoint another advocate to appear for them. The appellants have not listed the appeal for directions nor taken any other step towards the prosecution of the same.

In the circumstances, this appeal is dismissed with costs to the 1<sup>st</sup> respondent.

**B.N. OLAO**

**JUDGE**

**12<sup>TH</sup> MARCH, 2015**

**12/3/2015**

**Before**

B.N. Olao – Judge

Gichira – CC

Appellant – absent

Mr. Mwai for Respondent – present

**COURT:** Ruling delivered this 12<sup>th</sup> day of March, 2015 in open Court.

Mr. Mwai for Respondents present

Appellant absent.

**B.N. OLAO**

**JUDGE**

**12<sup>TH</sup> MARCH, 2015**