



No.285/2014

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MACHAKOS
CIVIL APPEAL NO. 50 OF 2013

EMARTI OLE NARAU GROUP RANCH.....APPELLANT/RESPONDENT

VERSUS

SEWANI OLE NKUSHU NAROKI.....1ST RESPONDENT/APPLICANT

NCHOSIYA OLE LEBOI.....2ND RESPONDENT/APPLICANT

NTIYANI OLE LEPONYO.....3RD RESPONDENT/APPLICANT

AIKANAE OLE SAPURU.....4TH RESPONDENT/APPLICANT

RANCHO OLE MARDADI5TH RESPONDENT/APPLICANT

RULING

1. Judgment was entered in **Kajiado PMCC No. 161 of 2010** on the **29th November, 2012**. In the matter the aggrieved party, the defendant in the Lower Court failed to appeal within the prescribed time. Consequently, by an application dated **25th March, 2013**, it sought leave of the court to appeal against the decision of the court out of time. It filed a Memorandum of Appeal that it intended to seek leave of the court to deem it duly filed.
2. The application having not been prosecuted, the respondents filed a Notice of Motion dated **12th March 2014**. They sought this court's order dismissing the application for want of prosecution.
3. The application is premised on grounds that; a year down the line the application for leave has not been set down for hearing therefore there is no appeal.
4. The application was not opposed. similarly there was no appearance on the part of the respondent (*intended appellant*)
5. Having considered the application, I find it having merit. In the premises I do allow the application. The Notice of Motion dated **25th March, 2013** be and is hereby dismissed for want of prosecution
6. Costs of the application shall be to the respondent in any event.
7. It is so ordered.

DATED, SIGNED and DELIVERED at MACHAKOS this 23TH day of MAY, 2014.

L.N. MUTENDE

JUDGE