



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU

HCC 118 OF 1985

JOSEPH MURORI N'NKANATA (Legal Representative of the Estate of M'Nkanata M'Mwirichia).....PLAINTIFF

VERSUS

STANELY GAITI.....1ST DEFENDANT

JELINA KAIMURI NKANJA.....2ND DEFENDANT

R U L I N G

This application is dated 24th day of March, 2014 and seeks orders:-

(a) The Hon. Court be pleased to Review and set aside orders of dismissal made on 17th March, 2014.

(b) That the Hon. Court do set down for hearing as a matter of great urgency, an application already filed and dated 20th February, 2014.

It is grounded on the facts set out in the affidavit of Mburugu Kioga, the advocate of the plaintiff and the following other grounds:

(a) This suit is very old and the subject matter thereof has generated a lot of acrimony and animosity between the applicant and other marauding grabbers bent on routing the applicant from her land.

(b) The court failed to notice the application was already in the file and no notice had been issued to the applicant's counsel prior to the dismissal.

(c) That it is also suspicious as to why the matter which came to court on 13.3.2014 was brought to the judge on 17th March for dismissal

(d) That the overriding objective of the court was not met by this dismissal.

On 15.7.2014 Mr. Kioga merely repeated the grounds in his affidavit and in the Notice of Motion.

I find as a fact that Notice had been properly issued for parties to show cause on 13.3.2014 as to why the suit should not be dismissed for want of prosecution accordance with the provisions of order 17 of the Civil Procedure Rules. I, however, agree that the plaintiff had filed an application on 20.2.2014 seeking to have this suit consolidated with 2 others.

In the interest of justice, I do set aside the orders of dismissal made on 17th March, 2014.

Delivered in Open Court at Meru this 25th day of July, 2014 in the presence of:

Kiogora h/b Kioga for applicant

P. M. NJOROGI

JUDGE