

IN THE HIGH COURT OF KENYA

AT NAKURU

CIVIL CASE NO. 100 OF 2007

DANIEL K. CHEBII.....PLAINTIFF

VERSUS

PYRETHRUM BOARD OF KENYA.....DEFENDANT

RULING

The notice of motion dated 4/7/08, was filed by the defendant seeking the dismissal of this suit for want of prosecution. The application is supported by the affidavit of Paul Kiongo Murimi, counsel for the defendant, who deposed that the suit was filed on 21/5/2007 together with an application for injunction. The defendant entered appearance and filed a defence. The application for injunction was heard and dismissed on 20/12/07 and since then, the plaintiff has done nothing towards prosecution of this suit; that the inaction in this matter is causing unnecessary expense on the defendant.

The hearing notice of this application was served on the firm of Ondieki Ayuka Advocates on 21/5/2011 who came on record in place of the firm of Oyugi Ombui Advocates on 8/11/2011. Since the said advocate came on record, they have not filed any reply to this application. Though served, the plaintiff's counsel did not appear. This matter is now 7 years old. Pleadings closed way back in 2007. The plaintiff has done nothing towards prosecution of this case. This application has come up severally for hearing but never proceeded. If the plaintiff was interested in this matter, they would have filed a reply or taken some action towards its prosecution for example, they would have tried to comply with **Order 11** of the **Civil Procedure Rules** because the case was filed before the **Civil Procedure Rules 2010** came into force.

It is apparent that the plaintiff is no longer interested in this matter and the application is hereby granted with costs to the defendant/applicant.

DATED and DELIVERED this 22nd day of July, 2014.

R.P.V. WENDOHO

JUDGE

PRESENT:

N/A for the plaintiff

Ms Kamoin for the defendant/applicant

Kennedy – Court Assistant