



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MERU**

**CIVIL APPEAL NO. 47 OF 2010**

**SAMUEL MUNG'ATHIA M'IKIARA & JULIA MBURA M'IKIARA (suing as legal representative of the estate of M'IKIARA MUTIRITHIA – DECEASED).....APPELLANTS**

**Versus**

**ISAYA IKAMATI M'NJAA (the legal representative of NTONJA MUTIRITHIA.....RESPONDENT.**

**RULING**

This application is dated 19/8/2014 and seeks orders;-

- 1. That the Honourable Court be pleased to dismiss the Appeal herein for want of prosecution.***
- 2. That the costs to this application and the entire appeal be borne by the appellant.***

It has the following grounds

- (a) More than one (1) year has lapsed without the Appellants setting down the appeal for hearing.***
- (b) The Appellants has (sic) depicted a lack of willingness to prosecution the Appeal herein.***
- (c) Litigation must come to an end.***
- (d) No prejudice whatsoever or at all shall be occasioned to the Appellants upon dismissal of the Appeal.***

When the application was heard inter-parties on 30/10/2014, the parties, by consent, agreed to have the application marked withdrawn and settled with no order as to costs.

It is ordered that the application be marked as withdrawn and settled. I grant no order as to costs.

**Delivered in Open Court at Meru this 30th day of October, 2014 in the presence of;**

Cc. Daniel/Lilian

Muthomi for Appellant

Ngunjiri holding brief for Respondent

**P. M .NJOROGE**

**JUDGE.**