



**REPUBLIC OF KENYA**

**High Court at Embu**

**Civil Case 64 of 2011**

ELIZABETH MWENDIA NJUKI.....PLAINTIFF

VERSUS

BONIFACE NJUKI RUNJI Alias

BONIFACE N. GICHONI.....DEFENDANT

**R U L I N G**

The application dated 28/8/2012 seeks to have the plaintiffs' suit dismissed for want of prosecution and non compliance with the new civil procedure rules. Its premised on the grounds on the face of the application and the supporting affidavit.

The plaintiff/respondent who is now acting in person was served with this application but has not filed any response to the application. There is an affidavit of service by Jackson Muriithi showing that the plaintiff/respondent was served with the notice of motion and the hearing notice. The record shows that there was an attempt to settle this matter out of court which was not fruitful.

The plaintiff's counsel withdrew from acting for the plaintiff because of lack of instructions. It is clear that the plaintiff has not complied with the provisions of Order 3 Rule 2 of the Civil Procedure Rules. She has not supplied the plaintiff with any of the required statements and documents. This matter was last in court on 9/5/2012 when the plaintiff's counsel ceased acting for her. Since then she has taken no step to prosecute the case.

Even after being served with the application requesting for dismissal, she still has not responded or taken any action. My finding is that the plaintiff/respondent has lost interest in the suit. The same is dismissed.

Owing to their special relationship I do order each party to bear his/her own costs.

**DELIVERED, DATED AND SIGNED AT EMBU THIS 15<sup>TH</sup> OF MAY 2013.**

**H.I. ONG'UDI**

**JUDGE**

**In the presence of:-**

**Mrs. Njuguna for Mutitu for Applicant**

**Defendant/applicant**

**Njue CC**