



REPUBLIC OF KENYA

IN THE HIGH COURT

AT MALINDI

Civil Suit 39 of 2010

**THOMAS MAOSA MARANGA
T/A**

MARANGA MAOSA &

**ASSOCIATES ADVOCATES APPLICANT
VERSUS**

**1. THE
CHAIRMAN/SECRETARY/TRE
ASURER**

**PEACE OF ELSHADAI
TEMPLE**

2. CONSTANCE TUNDA VUKO.....RESPONDENT

RULING

The defendants' advocate has applied for this suit to be dismissed for want of prosecution under Order 17 rule 3 of the Civil Procedure Rules as the last step taken was on 17th May 2010.

The plaintiff's key response is that the suit was not ripe for hearing as there has been no compliance with the new Civil Procedure Rules, Order II thereof.

I agree with the applicant counsel's response that this amounts to an excuse especially given the fact that the plaintiff is an advocate of this court.

However, dismissal of a suit ought not to be done willy nilly. I would therefore disallow the defendants' application but direct the plaintiff to take necessary steps to have the matter listed for hearing within six

(6) months of today's date, failing which the suit will stand dismissed. The costs of this application are awarded to the applicant.

Delivered and signed on this **21st** day of **February, 2012** at Malindi in the presence of Mr. Mokaya for respondent, cc Mungai.

Defendant/applicant – no appearance.

C. W. Meoli
JUDGE