



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT ELDORET**

**Judicial Review 19 of 2009**

**CHEPKERIO CHELAL:.....APPLICANT**

**AND**

**BARINGO LAND DISPUTES TRIBUNAL & ANOTHER.....RESPONDENT  
RULING**

The Applicant prays that the substantive Motion taken out by the Respondents on 16<sup>th</sup> August 2007 under a certificate of urgency be dismissed for want of prosecution. The grounds are that the matter was last in court on 13<sup>th</sup> May 2009 when it was marked as stood over generally and since then the Respondent has not taken any action to set it down for hearing. That all the Respondent required was a stay of proceedings and since obtaining the same has become indolent and has shown no interest in prosecuting the same.

The affidavit in support sworn by the Applicant reiterates the grounds above only adding that the interim orders obtained by the Respondent operate adversely to the Applicant and he stands to suffer extreme prejudice as he cannot execute orders granted earlier in his favour.

The firm of Tarus & Company Advocates on record for the Respondent though served did not attend court on the date this application was set to be heard.

The court records show that the substantive motion was set down to be heard on 13.05.2009. On that date none of the parties herein attended court and the court marked the matter as stood over generally. Between that date and 16/02/2010 when this application was filed no action has been taken by the Respondent to have the application heard. No reply to the application was filed by the Respondent and as stated above there was no attendance at the hearing by the Respondent or his duly appointed advocate. Such can only be deemed as the actions of a party who has lost interest in the case he filed and is content with an interim order that he has enjoyed for a period in excess of two (2) years. I am satisfied that this application is merited and accordingly the Notice of Motion dated 6<sup>th</sup> August 2007 is dismissed for want of prosecution and all orders previously granted are lifted.

Orders accordingly.

**DATED SIGNED AND DELIVERED AT ELDORET THIS 16<sup>TH</sup> DAY OF JUNE 2010.**

**P.M.MWILU  
JUDGE**

**IN THE PRESENCE OF**

Advocate for

Gumbo H/B Kiptuny - Interested party/Applicant  
Andrew Omwenga - Court clerk.

**P.M.MWILU**  
**JUDGE**