



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (MILIMANI LAW COURTS)**

**CIVIL SUIT 354 OF 2004**

**DICKSON MUSYOKI MAUNDU..... PLAINTIFF**

**VERSUS**

**KANGUNDO FARMING &  
RANCHING COMPANY (ITHANGA) LTD)**

**JOSHUA MAKAU MBUVI**

**PETER MUTUKU NGANGA**

**DAVID MBAI MUSYATI**

**JASPER NTWIGA MWENDA**

**T/A NTWIGA MWENDA**

**LAND SURVEYORS..... DEFENDANTS/RESPONDENT**

**RULING**

From what has been brought to my attention during the hearing of the Defendant's Notice of Motion dated 25<sup>th</sup> March 2009 particularly the fact that the plaintiff/Respondent has not attempted to explain his failure to prosecute this suit for more than three years and in the light of the Ruling by Justice Ransley dated 11<sup>th</sup> April 2005 which has not been appealed against, I do not find any merits in the Defendant's/Respondent's opposition to the Notice of Motion. Accordingly, the said Notice of Motion is hereby granted and the Respondent's suit hereby dismissed with costs for want of prosecution under order XVI Rule 5 of the Civil Procedure Rules.

**Dated this 17<sup>th</sup> day of July 2009.**

**J.M. KHAMONI**

**JUDGE**