

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

Ciivil Case 25 of 1996

NJERU KIRIE1ST PLAINTIFF
KIRINGA NJIRU.....2ND PLAINTIFF
GICIEBU GICEKO.....3RD PLAINTIFF
NGARI KABINGU.....4TH PLAINTIFF

VERSUS

LAWRENCE MURIUKI.....1ST DEFENDANT
JOSEPH MWAI MUCHOKI.....2ND DEFENDANT
AMBROSIUS NYAGA RURI.....3RD DEFENDANT
NDWIGA MUKUNDI.....4TH DEFENDANT
NJIRU MUTUA.....5TH DEFENDANT

RULING

This suit was filed on 15/3/1996 by way of Originating Summons. On 4/6/2004 the suit was dismissed for want of prosecution over a period of 8 years.

Then on 5/10/2007 the plaintiff filed an application to set aside the dismissal and reinstate the suit. The supporting affidavit states that the plaintiffs did not have funds to prosecute the suit but they are willing to take action if the dismissal was to be set aside. The application is opposed in addition to the delay of 8 years the applicants took a further period of over 3 years before filing this application. The explanation given for failure to take action in prosecuting the suit is not satisfactory. The suit was already in court for what funds were required?

I find there is inordinate delay in this case which is not explained. The application is dismissed with costs to Respondents

Dated this 28th January, 2008.

J. N. KHAMINWA

JUDGE