



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Civil Suit 1995 of 1998 (OS)

1. Land and Environmental Law Division

2. Subject of main suit: Land

Original LR Kiambaa/Ruaka/220

Now LR Kiambaa/Ruaka/611

LR Kiambaa/Ruaka/575

LR Kiambaa/Ruaka/576

3. Suit dismissed on 5.11.07 for non attendance of plaintiff

4. Application 16.1.07

Prayer to set aside orders dismissing suit.

Reasons: Plaintiffs had not received letter to attend court.

5. Opposition – no steps taken by plaintiff to finalize case.

6. Held: Application granted. Good cause shown to set aside courts orders.

7. Case Law – Nil

8. Advocate:-

K. Muigai of Kamau Kuria & Kiraitu & Co Advocates for the plaintiffs-present

R.N. Mbugua & Co. Advocates for the 3rd defendant

P.K. Macharia of Macharia Kahonge & Co. Advocates for 1st and 2nd defendant

MERCY WANJIRI IGOGO & OTHERSPLAINTIFFS

VERSUS

FRANCIS THUKU GAKUMO & OTHERSDEFENDANTS

RULING

I: Application to set aside dismissal of suit orders of the court on 5.11.07

1. The application before me seeks prayers to set aside my orders of 5.11.07 on the ground that on the day called out for hearing the plaintiffs being absent the suit was dismissed for non-attendance, that the plaintiffs indeed had good cause not to be present.

2. The reasons given was that the plaintiff in fact never received communication to attend court. This was of no fault of theirs.

3. The advocate for respondent oppose this as the matter had taken long and the plaintiffs appear not to be interested.

II: Opinion

4. Where, for good cause the said plaintiffs indeed must show the reasons why she did not attend. She states she did not receive the communication as required from the advocate.

5. I would allow the application as prayed and set my orders of 5.11.07 aside. That this suit do proceed to full trials expeditiously with costs to respondents.

Dated this 20th day of February 2008 at Nairobi.

M.A. ANG'AWA

JUDGE

K. Muigai of Kamau Kuria & Kiraitu & Advocates for the plaintiffs-present

R.N. Mbugua & Co. Advocates for the 3rd defendant

P.K. Macharia of Macharia Kahonge & Co. Advocates for 1st and 2nd defendant