



REPUBLIC OF KENYA



**KENYA LAW**  
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**Njoroge v Thiongo & another (Environment and Land Appeal  
E038 of 2020) [2022] KEELC 13659 (KLR) (13 October 2022) (Ruling)**

Neutral citation: [2022] KEELC 13659 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT AND LAND APPEAL E038 OF 2020**

**LN MBUGUA, J**

**OCTOBER 13, 2022**

**BETWEEN**

**CHARITY NJOKI NJOROGE ..... APPELLANT**

**AND**

**GEOFFREY THIONGO & REUBEN KIBUE THIONGO ..... 1<sup>ST</sup> RESPONDENT**

**REVIVAL & RESTORATION INTERNATIONAL CHURCH .... 2<sup>ND</sup>  
RESPONDENT**

*(An appeal against the entire judgment and decree of the Chief Magistrate  
Court at Milimani Commercial Courts Hon. L.L. Gicheha Chief  
Magistrate delivered on 28th August 2020 in Civil Case 8958 of 2018)*

**RULING**

1. Before me is an application dated 16.5.2022 in which the 1st Respondents are seeking orders for the dismissal of the appeal for want of prosecution. It is averred that this appeal was filed close to two years ago on 25.9.2020 and no steps have been taken to prosecute the same. That counsel for the appellant has indicated that the appellant has since passed on yet no steps have been made to substitute her, and that the appeal has abated. On 25.7.2022, Counsel for the appellant had informed the court that he no longer had instructions in the matter.
2. I find that there are no concise particulars regarding the death of the appellant. Her advocate had simply informed the court that she died sometime in August 2021. That being the case, I decline to dismiss the suit on the basis of abatement.
3. However, I note that on 29.9.2021, the date the court was informed that the appellant had passed on, the court gave directions for the matter to be mentioned before the Deputy Registrar on 1.12.2021 to confirm the status of a grant. The matter was mentioned severally before the Deputy Registrar on



1.12.2021, 28.2.2022 and 12.5.2022. In all those instances, there was no indication that the process of getting a grant had commenced.

4. In the circumstances, this suit is dismissed for want of prosecution under Order 42 rule 35 of the Civil Procedure Rules. Noting that the appellant is allegedly deceased, I direct each party to bear their own costs, of the suit.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 13<sup>TH</sup> DAY OF OCTOBER, 2022  
THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

**In the presence of:-**

Wesonga holding brief for Kiprop for 3rd Respondent

Muturi Kamande for Applicant (1st Respondent)

Mathenge for Appellant

Court assistant: Eddel/Joan

