

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYERI

HIGH COURT CIVIL CASE NO. 57 OF 1997

1. WAIRIMU NGATIA)

2. PETERSON WAMBUCHA NGATIA)

3. GEORGE GITHINJI NGATIA) PLAINTIFFS

VERSUS

1. NDIRANGU s/o KARUU)

2. ELIZABETH WAIRIMU NDIRANGU) DEFENDANTS

R U L I N G

Ndirangu s/o Karuu and Elizabeth Wairimu Ndirangu s/o Karuu (hereinafter referred to as the Defendants/Applicants) seek to have the suit filed against them by Wairimu Ngatia, Peterson Wambucha Ngatia and George Githinji Ngatia (hereinafter referred to as 1st, 2nd and 3rd Respondents respectively) dismissed for want of prosecution. It is the Plaintiff's contention that the Respondents have taken no action to prosecute this suit since 1997.

The 2nd Respondent has sworn a replying affidavit in which he explains that they are interested in pursuing the suit but that they were held back by the death of 1st Respondent who is the mother of 2nd and 3rd Respondent and that given an opportunity they would prosecute the suit.

There is no doubt that the Respondents have been indolent in prosecuting this suit. I will however now give them a final opportunity to prosecute this suit and order that the Respondent take action to prosecute this suit within the next 3 months from the date hereof failing which the Applicant will be at liberty to re-apply for dismissal of the suit for want of prosecution.

The Respondents shall pay costs of this application to the Applicant.

Dated signed and delivered this 12 th day of November 2004.

H. M. OKWENGU

JUDGE