



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MERU

ELC SUIT NO. 7 OF 2012 (O.S)

IN THE MATTER OF LAND PARCEL NO. NJIA CIA MWENDWA/3322

AND

IN THE MATTER OF SECTIONS 27 AND 28 OF THE LIMITATION OF ACTIONS ACT CAP 21 LAWS OF KENYA

AND

IN THE MATTER OF ORDER 37 RULES 6(1) OF THE CIVIL PROCEDURE RULES

AND

IN THE MATTER OF ARTICLE 159 OF THE CONSTITUTION OF KENYA 2010

BETWEEN

GEDIEL KIMATHI KITHURE.....1ST APPLICANT

SHADRACK MUGAMBI M'KITHEA.....2ND APPLICANT

SAMUEL KARUTI.....3RD APPLICANT

VERSUS

ELIYAH KINYUA BAARIU.....RESPONDENT

SEBRINA KAARIO KARUTI.....APPLICANT

RULING

1. This suit was dismissed on 23.1.2018. The Notice of Motion dated 1.9.2018 seeks orders to re-instate the suit and the application dated 24.2.2015.

2. The grounds in support of the application are set out in the body of the Motion and supporting affidavit of Seberina Kaario Karuti. It is contended that the applicant was not absent deliberately. The matter was fixed for notice to show cause on 23.1.2018 and the court intended to transfer the file to Maua court. No party attended and the court went ahead and dismissed the matter for want of prosecution. She affirmed that her advocate was not aware of the date and consequently he had not informed her. Thus, the respondent will not be prejudiced in any way if application dated 24.2.2015 is reinstated.

3. I find that the application has not been opposed. Nevertheless, the applicants need to be more vigilant in the prosecution of this case taking into account the judicial principle that '**justice shall not be delayed**'. *See Article 159 (2) (b) of the Constitution of Kenya.*

4. I hereby allow the application dated 1.9.2018 with no orders as to costs. The application dated 24.1.2015 is to be listed down for hearing forth with.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 2ND DAY OF OCTOBER, 2019 IN THE PRESENCE

OF: -

C/A: Kananu

Kiogora holding brief for B.G Kariuki for applicant/plaintiffs

Applicants

HON. LUCY. N. MBUGUA

ELC JUDGE