



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT CHUKA**

**CHUKA ELC CASE NO. 143 OF 2017**

**FORMERLY MERU ELC CASE NO. 155 OF 2011 (OS)**

**LUKE KITHURE MUTIGA.....PLAINTIFF**

**VERSUS**

**JONATHAN KITHAKA IGUNA & ANOTHER.....DEFENDANTS**

**RULING**

1. When this suit was given a hearing date on **14<sup>th</sup> February, 2018**, the advocates representing the parties were present. The hearing date given by the court was the **3<sup>rd</sup> of May, 2018**.

2. On **3<sup>rd</sup> May, 2018**, Miss Muriuki holding brief for Mr. Murango, the plaintiff's advocate, told the court that he sought an adjournment as the plaintiff was unavailable. It is my view that since Mr. Murango had dedicated the **3<sup>rd</sup> of May, 2018** to the hearing of the suit, he himself should have come to court to explain why the hearing should not proceed. Mr. Rimita, the defendants' advocate was present in court and told the court that he was ready to proceed with the hearing. He also told the court that the defendants were in court.

3. As only the defendants were in court, this suit is dismissed.

4. As the defendants have a counter-claim, they are directed to prove their counterclaim on **8<sup>th</sup> May, 2018**.

5. Costs concerning the dismissed suit will follow the event and are awarded to the defendants.

6. It is so ordered.

Delivered in open Court at Chuka this **3<sup>rd</sup> day of May, 2018** in the presence of:

CA: Ndegwa

Mrs Muriuki h/b Murango for the Plaintiff

Rimita for the defendants

**P.M. NJORGE**

**JUDGE**