



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT CHUKA**

**CHUKA ELC MISCELLANEOUS CASE NO. 04 OF 2018**

**JULIUS MBAKA.....APPLICANT**

**VERSUS**

**NAIVASHA KUREIYA.....1<sup>ST</sup> RESPONDENT**

**JANE CIANJOKA GANCENGU MWIANDI ALIAS**

**JANE CIANJOKA MWIANDI.....2<sup>ND</sup> RESPONDENT**

**DOROTHY KAGENDO MWINDI.....3<sup>RD</sup> RESPONDENT**

**(BEING SUED AS LEGAL REPRESENTATIVE IN THEIR  
CAPACITY AS WIDOWS OF THE DECEASED)**

**RULING**

1. This suit was filed in the **year 2002**. It was formerly Nairobi Civil Case No. 1458 of 2002 (O.S). When it was transferred to Meru it became Meru Civil Case NO. 188 of 2002 (O.S).
2. Over the years the case has been handled by the following Judges: Kasanga Mulwa J, D.A. Onyancha J, R. N. Sitati J, W. Ouko J (as he then was and now a Justice of Appeal), Anyara Emukule J, J. A. Makau J, and P. M. Njoroge J. From the court records it is pellucid that the parties have in many ways continued not to have the case heard and determined expeditiously.
3. On **17<sup>th</sup> September, 2014**, the parties by consent, moved the court to have the matter transferred to Chuka Law Courts where it was handled by the following Judicial Officers: C. K. Obara (SRM), H. M. Mbatia (RM), A.G. Kibiru (SPM), L. A. Mumassaba (RM) and J. M. Njoroge (CM).
4. On **9<sup>th</sup> July, 2018**, the parties, by their advocates agreement, had the suit transferred to this court on the basis that it was an O.S. Yet they are the same parties who had in the first place moved the court to transfer the suit from Meru to Chuka.
5. In the presence of the parties' legal representatives (Mr. I.C. Mugo holding brief for Ogotu for the plaintiff and Mr. A.G. Riungu for the 1<sup>st</sup> defendant), the court directed that the suit be heard on **20<sup>th</sup> September, 2018**.
6. On **20<sup>th</sup> September, 2018**, the parties and their advocates did not come to court. The suit was called on for hearing outside the court and it was confirmed that the parties were not in attendance. Their advocates were also absent.
7. Order 12, rule 1, reads as follows:

***“If on the day for hearing after the suit has been called on for hearing outside the court, neither party attends, the court may dismiss the suit.”***

8. This suit has remained unheard and undetermined in the hallowed precincts of the judicial pipeline for sixteen years. I opine that it merits dismissal.

9. In the circumstances, this suit is dismissed in terms of order 12 rule 1 of the Civil Procedure Rules.

10. No order is issued as to costs.

**Delivered in open court at Chuka this 2<sup>nd</sup> day of October, 2018** in the presence of:

CA: Ndegwa

Julius Mbaka plaintiff – present

Riungu present for 1<sup>st</sup> respondent

Mutwiri present for 2<sup>nd</sup> & 3<sup>rd</sup> Respondents

Ochieng Ogutu & Company absent for the plaintiff

**P.M. NJORGE**

**JUDGE**