



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO 56 OF 2017

FORMERLY MERU ELC CASE NO.67 OF 2015

ROSALID JULIA NGUGI MURUNGI (ON BEHALF

OF DECEASED ESTATE OF JAMLICK NJAGI.....PLAINTIFF

VERSUS

WASHINGTON RWIGI.....1st DEFENDANT

HUMPHREY MUCHIRI.....2ND DEFENDANT

RULING

1. This application is dated **15th August, 2018** and seeks the following orders:

1. That the honourable court be pleased to set aside the dismissal orders herein dated 5th April, 2017 and reinstate this suit to be heard on merit.
2. That costs of this application be in the cause.

2. The application has the following grounds:

1. That this suit was dismissed on 5.7.2017 for want of prosecution.
2. That the plaintiff was not served with the N.T.S.C.
3. That the plaintiff has interest in this land hence prayer for reinstatement.
4. That this application will not prejudice the previous defendants or current respondent in any way.

3. The application is supported by the affidavit of the applicant sworn on **15th August, 2018** which states:

1. That I am the plaintiff herein hence capable of swearing this affidavit.
2. That this suit was dismissed on 5th July, 2017 for want of prosecution.
3. That none of the parties was present.
4. That I was not served with the N.T.S.C. for that day.
5. That there has been a plan to hide me from the proceedings of this case by my opponents.
6. That I have interest in this estate since my late husband left for me several properties including land so that is why I am eager to prosecute this case hence this application.
7. That if this suit is not reinstated I will definitely become a destitute because right now the defendants have chased me from the suit

land and I live in rental rooms.

8. That if this application is not granted the defendants will continue to squander my late husband's properties with impunity.

9. That I now pray for this application to be allowed.

10. That what is deponed herein is true to the best of my knowledge and information.

4. Miss Wambulwa for the applicant asked the court to allow the application on the ground that she had not been served with a Notice to show cause. All along the applicant had an advocate who was served with the Notice to show cause.

5. The suit was dismissed on 5th April, 2017, one and a half years ago. This shows that there was inordinate delay in the filing of this application. It is the duty of every litigant to ensure that his or her suit is prosecuted diligently. I find that this application lacks merit.

6. In the circumstances this application is dismissed.

7. I issue no order as to costs.

8. It is so ordered.

Delivered in open Court at Chuka this 3rd day of October, 2018

in the presence of:

CA: Ndegwa

Miss Wambulwa h/b Ogoti for the plaintiff

Defendants not present

P.M. NJORGE

JUDGE