



REPUBLIC OF KENYA



KENYA LAW
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**Mwaura & another v Nyambura (Civil Appeal E269 of 2023)
[2025] KEHC 13110 (KLR) (9 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 13110 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CIVIL APPEAL E269 OF 2023
DO CHEPKWONY, J
SEPTEMBER 9, 2025**

BETWEEN

CHARLES MBUGUA MWAURA 1ST APPELLANT

JAMES MWAURA 2ND APPELLANT

AND

JOHN MWANGI NYAMBURA RESPONDENT

*(Being an Appeal arising from the Judgment issued at the Principal
Magistrate's Court at Limuru by Honourable C. N. Mugo on 16th May, 2023)*

RULING

1. On 15th July, 2024, the court issued Notice to Show Cause why the appeal should not be dismissed for want of prosecution for failing to take any steps in having the appeal prosecuted. The matter was then slated for mention on 17th October, 2024, on which day, the Appellant/Applicants' Counsel sought leave to file a response to the Notice to Show Cause which was granted and matter was fixed for mention on 12th November, 2024. On this day, the Appellants/ Applicants had still not filed any response to the Notice to Show Cause and the court gave them another chance to do so awhile directing that if either party failed to file their response, the court will proceed to render its ruling on the matter without further recourse to either party in the matter.
2. It is worth-noting that as at the time of writing this Ruling, the Applicants had not filed any response to the Notice to Show Cause having been put on notice that the appeal would be dismissed if there was no justifiable reason demonstrated. Going by this conduct, and given the fact that the Applicant/Applicants have not taken any steps in having the appeal prosecuted by failing to file a Record of Appeal, it is a clear demonstration that the Appellants/Applicants were not keen in having the appeal prosecuted. This position has been supported by the Respondent's counsel who has expressed same sentiments.



3. Having so observed, this Court finds that indeed there is no sufficient or justifiable reason why the appeal should not be dismissed for want of prosecution and the court proceeds to dismiss the appeal for want of prosecution pursuant to the provisions under Order 35 Rule 4 of the Civil Procedure Rules.

It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 9^H DAY OF SEPTEMBER 2025.

D. O. CHEPKWONY

JUDGE

In the presence of:

No appearance for and by either party despite the same having been cause-listed.

Court Assistant - Kinyua

