



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

MATRIMONIAL CAUSE NUMBER 12 OF 2016

M W W.....APPLICANT

VERSUS

D W K.....RESPONDENT

RULING

1. The application before Court is dated 13/6/2014. The Applicant then represented by Ms Githui & Company Advocates sought orders;

1. Spent

2. Spent

3. THAT pending the hearing and determination of the originating summons, an injunction be issued restraining the defendant from entering upon, interfering with plaintiff quiet possession, selling, disposing off, transferring or in any other way adversely dealing with properties known as

- 1. Ndundori/Lanet Block [particulars withheld] Kiamunyeki 'A'**
- 2. Plot No. [particulars withheld] (Nakuru Workers)**
- 3. L.R. No. [particulars withheld] in Nakuru Municipality**
- 4. Nakuru Municipality/Block [particulars withheld]**
- 5. Nakuru Municipality/Block [particulars withheld]**
- 6. Bahati/Kabatini Block [particulars withheld]**
- 7. Bahati/Kabatini Block [particulars withheld]**
- 8. Bahati/Kabatini Block [particulars withheld].**
- 9. Nyandarua/Oljoro orok Salient/[particulars withheld]**
- 10. Bahati/Kabatini Block [particulars withheld]**
- 11. Kiesegea/Nyamamithi Block [particulars withheld] (Mumoi)**
- 12. Kiesegea/Nyamamithi Block [particulars withheld] (Mumoi)**
- 13. Nos. [particulars withheld] at Lanet Market**
- 14. Motor vehicle registration No. KVC [particulars withheld], Toyota pickup**

15. **Motor vehicle registration No. KAJ [particulars withheld], Nissan pickup.**

16. **Toyota Hilux KXP [particulars withheld]**

17. **Toyota Datsun KLZ [particulars withheld]**

18. **Motor cycle registration No. KXM [particulars withheld]**

19. **Welding machines**

4. THAT costs of this application be provided for.

2. Efforts to prosecute this matter have been frustrated by the Applicant. Addressing the Court on 7/3/2016, when matter came for hearing, Mr. Githui for the Applicant lamented;

“The Applicant rarely comes to my office. I will seek indulgence. I will file an application to cease acting.”

3. The erstwhile advocates indeed did file the application to cease acting on the 22/3/2016 and after several hiccups on service on the Applicant herein, counsel was allowed to cease acting on 13/2/2017.

4. Subsequently, the Applicant took no action. The Respondent through his advocates Ms Kimatta and Company Advocates fixed the matter for hearing severally. The Applicant never appeared.

5. This matter came up for hearing on 15/5/2018. Despite evidence of proper service, the Applicant did not appear to prosecute her application.

6. Mr. Kimatta for the Respondent moved the Court to dismiss the said application for want of prosecution.

7. I have considered the prayer by the Respondent to have matter dismissed for want of prosecution.

8. The history of this case speaks for itself. The Applicant has demonstrated intolerable apathy in the prosecution of her case.

9. Indeed, the said apathy and disinterest in the matter moved their erstwhile advocates to cease acting.

10. It is safe to infer that the Applicant has lost interest in the matter herein. Justice delayed is justice denied and the Respondent is entitled to a resolution of the matter one way or the other and this cannot be achieved without the applicant prosecuting her application.

11. I am satisfied that this is a proper case for dismissal for want of prosecution.

12. The application dated 13/6/2014 is dismissed for want of prosecution with costs to the Respondent.

Dated and Signed at Nakuru this 12th day of June, 2018.

A. K. NDUNG'U

JUDGE