



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT BUNGOMA**

**ENVIRONMENT AND LAND CASE NO. 54 OF 2014**

**BENSON MANGATE BARASA .....PLAINTIFF**

**VERSUS**

**AMOS WABWIRE ..... DEFENDANT**

**RULING**

[1]. The applicant herein filed a notice of motion dated 15.5.2014. The same is under Order 2 Rule 15 (1).The applicant prayed for orders that the court do declare that this suit is an abuse of the process of the court and that the suit does not raise a reasonable cause of action against the defendant. Further, that the suit is *res judicata* and that the same is barred by limitation.

[2]. The motion was served and the same was served on the respondent on 17.11.2015. The respondent did not file any grounds of objection and/or any affidavit. He also did not attend the court during the hearing.

The application is therefore not opposed. The applicant prays that the same be allowed since it is not opposed.

[3]. I do allow the application as allowed. This suit is struck out with costs to the defendant.

**DATED at BUNGOMA this 9th day of March 2016**

**S. MUKUNYA**

**JUDGE**