



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

CONSTITUTIONAL PETITION NO. 8 2012

**IN THE MATTER OF ARTICLES 22, 23 AND 165 3(B) OF THE CONSTITUTION OF THE
REPUBLIC OF KENYA 2010**

AND

**IN THE MATTER OF ARTICLES 42, 62, 69 AND 73 OF THE CONSTITUTION OF THE
REPUBLIC OF KENYA 2010**

AND

**AND IN THE MATTER OF ALLEGED CONTRACTION OF FUNDAMENTAL RIGHTS
UNDER ARTICLES 19,**

**20,21, 40 42, 47, 62, 66, 69, AND 73 OF THE RIGHTS TO HAVE A CLEAN AND HEALTHY
ENVIRONMENT AND RIGHT TO A FAIR PARTICIPATION ON MATTERS AFFECTING**

PUBLIC LAND AND ENVIRONMENT AND ADMINISTRATIVE ACTION

AND

**IN THE MATTER OF THE CONSTITUTION OF KENYA (SUPERVISORY JURISDICTION
AND PROTECTION OF INDIVIDUAL) HIGH COURT PRACTICE AND PROCEDURE RULES**

BETWEEN

ROBERT NDEGWA MURUTHI – CHAIRMAN

JAMES K. KABUCHO – VICE CHAIRMAN

APOLO MACIRA – SECRETARY

LAIKIPIA DEVELOPMENT INITIATIVE.....PETITIONER/RESPONDENT

VERSUS

MAYOR TOWN CLERK.....1ST RESPONDENT/APPLICANT

SAMUEL WAWERU – CHAIRMAN

CYRUS MURIITHI – SECRETARY

MAINYA TRAVELLERS SACCO.....2ND RESPONDENT

COMMISSIONER OF LANDS.....3RD RESPONDENT

HON. ATTORNEY GENERAL OF REPUBLIC OF KENYA.....4TH RESPONDENT

RULING

Before court is the Notice of Motion dated 7/5/2015 seeking orders as follows:

“1. THAT this Honourable court be pleased to dismiss this suit for want of prosecution

2. THAT the costs of this Application be provided for”

The application was set down for hearing on 16th August, 2016. All parties were properly served with Notice of the hearing date. The Petitioner failed to file any response to the application and failed to appear in court on the hearing date.

MR. MAINA argued the application on behalf of the 2nd Respondent. **MR. MUKIIRA** for the Interested Party and **MR. WACHIRA** for the Hon. Attorney General both indicated their support for the application.

This Petition was first filed on 8th March, 2012. The Petitioner took no action to prosecute the petition and it was last mentioned in court on 27th July, 2012.

On 28th January 2014 an application was made to dismiss the petition. Just like in the present case the Petitioner did not respond to that application nor did they attend court on the hearing date. Hon Justice Waithaka in her ruling dated 7/11/2014 directed that the Petitioner amend their petition and have the matter listed for hearing within 60 days.

Again the Petitioner sat tight and took no action to comply with these directions. It is now two years down the road. The Petitioner is still silent. It is clear they have no intention to prosecute this petition and have abandoned the same. There exists no further justification to keep the Petition alive. As such I do allow this application and I hereby strike out the petition dated 8/3/2012 for lack of prosecution. Costs to be met by the Petitioner/Respondent. It is so ordered.

Dated in Nakuru this 2nd day of September, 2016.

Mr. Maina holding brief for Mr. Mwangi for 2nd Respondent

No appearance for Petitioner

Maureen Odera

Judge

2/9/2016