



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
CIVIL SUIT NO 102 OF 2009

ISAIAH IRUKI.....PLAINTIFF

VERSUS

CATHERINE STAFANO1ST DEFENDANT

ISAAC BAHATI STAFANO.....2ND DEFENDANT

R U L I N G

Notice had been properly issued for parties to show cause why this suit should not be dismissed for want of prosecution in terms of Order 17 Rule 2 of the Civil Procedure Rules.

On 4th November, 2015 the Plaintiff was not present. He was also not present on 08/09/15 when the matter was before this Court’s Deputy Registrar .

Miss Rimita, for the defendant urged the Court not to dismiss the suit as the defendants had a Counter-claim.

Order 17 Rule 2(1) states:

“In any suit in which no application has been made or step taken by either party for one year, the Court may give notice in writing to the parties to show cause why the suit should not be dismissed, and if cause is not shown to its satisfaction, may dismiss the suit”.

It should be noted that notice is given to all parties. All parties, whether plaintiffs or defendants are required to show cause why a suit should not be dismissed . The defendant if he has a Counter Claim and is opposed to the dismissal of a suit is required to show cause to the satisfaction of the Court.

In this matter, neither the absent Plaintiff nor the defendant have shown to the satisfaction of this Court why this suit should not be dismissed. The parties do not dispute that they had not taken any step of filed any application between 26/10/2009 and when they were required to show cause. The intervening period amounts to a period of over 6 years.

I find that no cause has been shown to the satisfaction of this Court that this suit should not be dismissed. In the Circumstances, this suit is dismissed. I issue no order as to costs.

It is so ordered.

Delivered in Open Court at Meru this 9th day of November, 2015 in the presence of:

Cc Daniel/Lilian

Baithambu h/b Ondari for Plaintiff

Kmathi Kiara for Defendant/Respondent

P. M. NJOROGE

JUDGE