



**M'Ruuti v Muthuku & 2 others (Originating Summons 27 of 2010)  
[2015] KEHC 8553 (KLR) (10 November 2015) (Ruling)**

*Stephen Mwithia M'ruuti v Joshua Muthuku & 2 others [2015] eKLR*

Neutral citation: [2015] KEHC 8553 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
ORIGINATING SUMMONS 27 OF 2010  
PM NJOROGE, J  
NOVEMBER 10, 2015**

**BETWEEN**

**STEPHEN MWITHIA M'RUUTI ..... PLAINTIFF**

**AND**

**JOSHUA MUTHUKU ..... 1<sup>ST</sup> DEFENDANT**

**ISABELLA NKINA M'IRERA ..... 2<sup>ND</sup> DEFENDANT**

**LAWRENCE KIRIINYA IBURI ..... 3<sup>RD</sup> DEFENDANT**

**RULING**

1. On 10<sup>th</sup> November, 2015, parties came to Court to show cause why this suit should not be dismissed for want of prosecution in terms of Order 17 of the Civil Procedure Rules.
2. Mr. Edwin Kimathi, holding brief for Mr. Kaumbi, said that the Plaintiff had in an Affidavit filed on 9<sup>th</sup> November, 2015 given substantial reasons why this suit should not be dismissed. Among the reasons given is that there is a suit, Meru CMCC No. 773 OF 2003, involving the same parties for which he had applied for consolidation with this suit. In paragraph 6 of the Replying Affidavit, the Plaintiff averred that he had been bedevilled by financial problems and a Succession Cause in Meru Succession case No. 403 of 2005.
3. The plaintiff, through Mr. Kimathi, expressed his desire to prosecute the case diligently. He asked for one last chance.
4. Mr. Mutegi Mugambi, for the defendant, asked the Court to give the Plaintiff a chance to prosecute his case.



5. I find that cause has been shown to the satisfaction of this Court as to why this suit not be dismissed for want of prosecution in terms of Order 17 CPR. It is, therefore, not dismissed.

It is directed as follows:-

Plaintiff to fully comply with Order 11 CPR within 45 days of today and the defendant to do so within 45 days after compliance documents are served upon him by the Plaintiff. Upon achievement of compliance, parties to obtain a mutually convenient date for directions from the Registry. It is so ordered.

**DELIVERED IN OPEN COURT AT MERU THIS 10<sup>TH</sup> DAY OF NOVEMBER, 2015 IN THE PRESENCE OF:-**

**P. M. NJOROGE**

**JUDGE**

Cc. Daniel /Lilian

E. Kimathi h/b Kaumbi for plaintiff

Mutegi for Defendant

