

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL APPEAL NO. 343 OF 2007

DINAH MORAA & JAMES ONSANDO MOSE (Suing on their behalf and on

behalf the estate of the late JAQUINE OSORO and in their capacity as the

Legal Representatives, Administrators' and Parents).....PLAINTIFFS

VERSUS

THE SOTIK TEA COMPANY.....DEFENDANT

R U L I N G

Before me is a Notice of Motion dated 11/7/2013. The defendant seeks to have the suit filed on the 13/4/2007 dismissed for want of prosecution. I have read and considered the affidavits filed by the parties. I do note that the matter was last in Court on 28/10/2010. It is two and a half (2 ½) years since then. In the respondent's/appellant's replying affidavit they admit that the matter was last in Court on the 28/10/10 but offer an explanation why the matter has not taken off since then, that the Court file went missing and efforts to trace the file.

Am persuaded that the Respondents haven't taken any action because of the challenges they have faced in getting the Court file. The respondents claim that they are intent on prosecuting the suit. I will the respondents a chance to prosecute the suit. I decline to grant the orders sought. The application is dismissed; costs shall be in the cause. The plaintiffs shall endeavor to have the suit fixed for hearing within the next 60 days from the date of this ruling.

Orders accordingly.

Dated, signed and delivered this 4th day of *June* 2014.

R. E. OUGO

JUDGE

In the presence of:-

.....For the Applicant/Respondent

.....For the Respondent/Appellant

.....Court Clerk