



**REPUBLIC OF KENYA**

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

**CIVIL SUIT NO. 62 OF 2003**

**CHARITY VANESSA GATHONI KAMAU.....PLAINTIFF**

**VERSUS**

**MARK PYMAN**

**KEZIA PYMAN**

**GEORGE TIMOTHY PYMAN.....DEFENDANTS**

**R U L I N G**

1. The second applicant filed a notice of motion dated 6th June, 2011 in which he seeks orders that the suit filed against him be dismissed for want of prosecution. The application is supported by his affidavit sworn on 19th May, 2011.
2. The applicant contends that this suit was last in court on 20/4/2010 and that since then, the plaintiff/Respondent has not taken any step to have the same prosecuted. The application by the applicant was duly served upon the respondent's advocates who neither filed any grounds of opposition or replying affidavit nor appeared in court during the hearing of the application.
3. Order 17 Rule 2 (3) of the Civil Procedure Rules provides that any party to the suit may apply for its dismissal in which no application has been made or step taken by either party for one year. In the present case the respondent presented her second witness in court on 17/10/2007. Since then she never made any further step towards concluding the suit. The applicant's advocates took a date for hearing of the suit on 20/4/2010. The respondent was absent but the applicant was present. The hearing was stood over generally. Since then, the respondent has not taken any step towards prosecution of her case.
4. It is clear that the respondent has lost interest in her case. I find that the applicant's application is well grounded. The same is hereby allowed with the result that the suit herein is dismissed with costs to the second defendant/Applicant.

It is so ordered.

Dated, signed and delivered at Kitale on this 8th day of July, 2014.

**E. OBAGA**

**JUDGE**

**COURT:** Ruling delivered at 9.28 a.m. in the absence of the applicant's advocate who was aware of today's date. Court Clerk – Kassachoon.

**E. OBAGA**

**JUDGE**

**8/7/2014**