



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT MERU**

**ELC CASE NO. 88 OF 2008**

**M'NGUTHARI M'ITHEWA alias KARIMONI.....PLAINTIFF/APPLICANT**

**VERSUS**

**THE ISIOLO COUNTY GOVERNMENT.....DEFENDANT/RESPONDENT**

**RULING**

1. This case was fixed by the court on 15.6.2017 during the service week and the Judge gave another date of 23.6.2017 for Notice to show cause. On 23.6.2017, the Judge gave directions to the effect that the matter was to be listed down for hearing within 3 months failure to which the matter was to stand as dismissed.
2. The matter was not fixed for hearing within the given period. An application was then filed on 8.12.2017 by plaintiff to have the suit reinstated. This application was dismissed on 24.9.2018 for want of prosecution.
3. Thereafter, plaintiff filed another application on 23.10.2018 for reinstatement of the application of 6.12.2017. This ruling is in respect of that application of 23.10.2018.
4. I must point out that Judiciary has embraced its vision of **SUSTAINING JUDICIARY TRANSFORMATION (SJT)** where one of the key drivers is service delivery. One of the most visible strategy undertaken by the judiciary in this vision is the clearance of case backlog. Since 2017, the Judiciary has been keen on ensuring that cases which have been in court for a period of over five years are heard and determined. Meru ELC is one of the court station that was reeling under the weight of very many old cases. Against this background, the station was given a special service week programme where visiting Judges would come to hear the old matters.
5. This being a 2008 matter, it was earmarked to benefit from the aforementioned service week exercise. That is why the registry listed the matter before Judge Cheronu on 15.6.2017.
6. In the case of **Utalii Transport Co. Ltd and 3 others vs NIC Bank Ltd and another** (2014) eKLR, the court had this to say on matters dismissal and the exercise of court's discretion;

***“What matters is the overall impression the court makes out of the analysis of the above principles within the circumstances of the case in question.....”.***

7. The impression I get is that the applicant and his advocate are certainly not serious. 1 ½ years down from the time a **notice to show cause** was issued in June 2017, the court is being invited **“to deal with an application to reinstate another application to reinstate the suit!”**.
8. The applicant has conducted this matter in a rather cavalier manner and I find no reasonable basis to allow the application. The application dated 12.10.2018 is therefore dismissed with costs to Respondent This file is marked as CLOSED and it is to be taken to the archives.

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS DAY OF 20<sup>TH</sup> FEBRUARY, 2019**

**IN THE PRESENCE OF:-**

C/A: Kananu

Miss Munga for applicant

Ngunjiri holding brief for respondent

**HON. LUCY. N. MBUGUA**

**ELC JUDGE**