



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MERU

ELC NO. 76 OF 2016

ANITA MUGAMBI.....PLAINTIFF/RESPONDENT

VERSUS

MERU COUNTY INVESTMENT AND

DEVELOPMENT CORPORATION.....DEFENDANT/APPLICANT

RULING

1. Vide the notice of motion filed on 6.8.2018, applicant/defendant is seeking for following orders:

- (i) That this suit be dismissed for want of prosecution.
- (ii) That costs of the suit of this application be borne by the plaintiff/respondent.

2. The grounds of the application are that:

- (a) That the plaint was filed on 15th June 2016.
- (b) That since July 2017 when this Honourable court delivered a ruling, the plaintiff has taken no further step whatsoever to prosecute this suit.
- (c) That it is over a year since the plaintiff took any action or step in respect of this suit.
- (d) That it is in the interest of justice that the suit be dismissed for want of prosecution.

3. The application is supported by an affidavit filed on 6.8.2018, whereby the advocate for the defendant avers that the plaintiff filed this suit against the defendant on 15th June 2016, while the ruling was delivered on 19th July 2017 and the plaintiff has neither taken any action nor any other step to prosecute the suit.

4. The defendant through his advocate stated that the delay in prosecution of the suit by the plaintiff was inordinate, inexcusable and is prejudicial to the defendant and thus it was clear that the plaintiff lost interest in the suit. Applicant believes it is fair and just that the suit be dismissed. He further averred that it was an overriding objective of the Civil procedure Act cap 21 Laws of Kenya that litigation must be heard and determined expeditiously and a party to civil proceedings or an advocate to such a party is under a duty to assist the court in achieving the overriding objective of the act.

5. The Counsel for Respondent ceased acting for the plaintiff hence the present application was served upon the plaintiff directly vide the affidavit of service filed in court on 11.2.2019. No response has so far been filed.

6. Pursuant to provisions of order 17 rule (2), this suit is hereby dismissed for want of prosecution with costs to Defendant/Applicant.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS DAY OF 27TH MARCH, 2019 IN THE PRESENCE OF:-

C/A: Kananu

C.P Mbaabu for plaintiff

Ojiambo for defendant

HON. LUCY. N. MBUGUA

ELC JUDGE