



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC CASE NO. 47 OF 2008

GIDEON MEENYE.....PLAINTIFF

VERSUS

THE HON. ATTORNEY GENERAL.....DEFENDANT

RULING

1. Vide the notice of motion filed on 9.11.2018, applicant/plaintiff is seeking for orders of reinstatement of the suit, which was dismissed on 26.9.2017.
2. Applicant contends that the hearing of the notice to show cause was served upon Mwiti & Co. advocates via EMS, but his advocate and himself never received the notice.
3. It was also argued for the plaintiff that the applicant was no longer being represented by Mwiti advocate.
4. The respondent's counsel contends that by the time the notice to show cause was issued, the counsel on record for the Applicant was Mwiti advocate and therefore service was proper.
5. I have perused the record and I find that applicant is not candid on the issue of representation and on service.
6. In his ground no. 5 & 6 of his application, he avers that the subject advocate (Mwiti & Co) did not get the hearing notice, and that is why him and his advocate were not in court on 26.9.2017. However Miss Soi argued that Mwiti advocate was served but had withdrawn from Acting without informing the applicant.
7. This is a 2008 matter and the applicant doesn't appear to be vigilant in prosecuting the matter.
8. Nevertheless, I will exercise discretion in favour of the applicant to enable him prosecute this case but with strict conditions.
9. The application of 9.11.2018 is allowed in the following terms:
 - (i) That the suit must be heard and concluded in the course of this year.
 - (ii) No application for adjournment by the applicant will be accepted by the court when the matter is set down for hearing, unless there are very compelling reasons that would warrant the adjournment.
 - (iii) Applicant is condemned to pay costs of the application.

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

IN THE PRESENCE OF:-

C/A: Kananu

Ojiambo holding brief for Meenye & Kirima for plaintiff/applicant

Kiongo for respondent

HON. LUCY. N. MBUGUA

ELC JUDGE