



**REPUBLIC OF KENYA**

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

**JR 19/2016**

**JUSTUS KANAKE M'MUKINDIA.....PLAINTIFF**

**VERSUS**

**LAND ADJUDICATION AND SETTLEMENT**

**OFFICER TIGANIA EAST.....DEFENDANT**

**SILAS MUTUNGI KARENGE.....2<sup>ND</sup> DEFENDANT**

**RULING**

1. This suit was dismissed on 22.2.2018 and the application dated 30.4.2018 is for reinstatement of the same. Applicant contends that the Judicial Review Motion which was dismissed was dated 23.7.2016, yet his JR motion is dated 25.7.2016, that he was not served with the mention date of 8.2.2018 and that on the date of dismissal, matter was coming up for mention only.

2. I have perused the entire record. I find that the Judicial Review motion was dismissed primarily because it has never been served upon the interested party and respondent. Order 53 of the Civil Procedure Rules requires that the motion be served.

3. No plausible reason have been advanced as to why the exparte applicant was not effecting service of the suit papers (read substantive motion) to the other parties. As regards the reference to motion of 23.7.2016 instead of 25.7.2016, that is but a minor error just like the applicant is making reference to a dismissal order dated 8.2.2018 yet the dismissal was on 22.8.2018.

4. Despite the foregoing, I am inclined to give the exparte applicant a last chance to prosecute the suit on condition that the main JR motion, along with the statement of facts and the chamber summons for leave are served upon the respondent and interested party within 7 days from the date of delivery of this ruling failure to which the suit shall stand as dismissed.

5. No orders as to costs.

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

**IN THE PRESENCE OF:-**

C/A: Kananu

Kungu for respondent

Maheri for interested party

**HON. LUCY. N. MBUGUA**

**ELC JUDGE**