



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO 155 OF 2017

FORMERLY MERU ELC CASE NO. 106 OF 2012

DAVID KINYUA BEDFORD.....PLAINTIFF

VERSUS

CO-OPERATIVE BANK OF KENYA.....DEFENDANT

RULING

1. This application is dated **3rd May, 2018** and was filed on **4th May, 2018**. It seeks the following orders:-

1. That this honourable court be pleased to set aside/review the orders issued on dismissing this suit for want of prosecution.
2. That consequently the honourable court be pleased to reinstate by (sic) this matter for hearing.
3. Cost be in the cause.

2. The application has the following grounds:

- a. That this application is meritorious as the parties are negotiating out of court.
- b. That reinstating this suit shall facilitate fast and affective negotiation of this suit.
- c. That I am ready to settle what is owed to the bank at any moment now.
- d. That no party shall be prejudice (sic) if the orders are granted.
- e. That there is sufficient reason why this application ought to be allowed.

3. When the application came up for interpartes hearing on 1st April, 2019, Mr. Murango Mwenda holding brief for Mr D. J. Mbaya, the defendant/respondent's advocate told the court that he was not ready to proceed because the application had been served upon the defendant/respondent's advocate on Friday, 29th March, 2019 only 3 days before today's hearing date. He told the court that the advocates representing the parties had agreed that the defendant/respondent can respond and that all parties do file written submissions and take directions on 6th May, 2019. The plaintiff was represented by advocate Kirimi who was holding brief for advocate Linda Kiome, the plaintiff's advocate.

4. The following **orders are issued**:-

1. In view of the fact that the application is almost one year old, having been filed on 4th May, 2018, and was only served upon Mr. Mbaya on Friday, 29th March, 2019, the application is not certified urgent.
2. The respondent is granted 14 days to respond as it has requested.
3. The applicant is to file and exchange written submissions within 7 days after receipt of the respondent's written response and **NEVERTHELESS** whether the applicant files written submissions within the stipulated time or not, the respondent is granted 7 days after expiry of the period granted to the applicant to file and exchange its written submissions.

4. Directions to confirm compliance with court orders on 6.5.2019

5. Costs shall be in the cause

Delivered in open Court at Chuka this 1st day of April, 2019

in the presence of:

CA: Ndegwa

Kirimi hb Linda Kiome for the Applicant

Murango Mwenda h/b D. J. Mbaya for the Respondent

P.M. NJORGE

JUDGE