



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT MERU**

**ELC MISC. APPLICATION NO. 44 OF 2014**

**JACKSON KAIBUNGA M'IKIRERA.....APPLICANT**

**VERSUS**

**MIKE KAILEMIA NTONG'ONDU .....1<sup>ST</sup> RESPONDENT**

**FRANCIS KUNYANGA NTONG'ONDU .....2<sup>ND</sup> RESPONDENT**

**MUGAMBI M'THIRITU MANYARA .....3<sup>RD</sup> RESPONDENT**

**RULING**

1. Vide an application dated 22.10.2018, applicant is seeking orders of reinstatement of the application dated 8.9.2014 which was dismissed on 15.10.2018.
2. The grounds in support of the application are that the dismissal was based on misinformation and that the non-attendance of the applicant's advocate in court when the matter came up in court for mention was inadvertent.
3. Applicant's counsel has sworn a supporting affidavit where she avers that the present matter was called out when she had stepped out to appear before hon. Justice Kemei. She further avers that applicant had duly filed and served the submissions in respect of the application of 2014.
4. The application is opposed vide the replying affidavit of counsel for respondents filed on 12.11.2018, whereby it is averred that the submissions filed and served on 21.11.2017 were not the ones which were to be filed and served within 14 days as ordered on 26.9.2018.
5. I have weighed all the arguments raised herein and I find that applicant's side is not serious about this matter.
6. This suit was dismissed on 7.12.2017 as applicant had not complied with court's orders of 23.10.2017. However vide an application dated 10.3.2018, applicant successfully obtained orders of reinstatement of the suit vide the court's ruling of 26.9.2018. However, there was a rider in that ruling; that **"the suit is reinstated on condition that the submissions of the applicant are availed (filed and served) within 14 days from date of delivery of the ruling"**.
7. The applicant has not given any plausible explanation as to how submissions of 21.11.2017 came to be. How were directions given for such submissions to be filed? The applicant appears to thrive in confusion.
8. This miscellaneous file was dismissed on 15.10.2018 a second time for non-compliance with the court's orders of 26.9.2018 where submissions were to be filed as from 26.9.2018 to 10.10.2018!
9. I therefore find that the present application is not merited. I dismiss the same with costs to respondent.
10. This file is marked as closed and is to be taken to archives.

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS DAY OF 22<sup>ND</sup> MAY, 2019 IN THE PRESENCE OF:-**

**C/A: Kananu**

Rimita & Kurauka for applicant

M.G Kaume holding brief for C.P Mbaabu for respondent

1<sup>st</sup> and 3<sup>rd</sup> respondent

**HON. LUCY. N. MBUGUA**

**ELC JUDGE**