



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT NAIROBI

ELC CIVIL CASE NO. 3 OF 2019 (OS)

IN THE MATTER OF: APPLICATION UNDER SECTION 4 OF THE LAW OF LIMITATION ACT

MARY WANGARI KIARIE..... INTENDED PLAINTIFF

=VERSUS=

PETER WAMBUGU MWANGI.....INTENDED DEFENDANT

RULING

1. This is the Exparte originating summons dated 14th January 2019 brought under Section 4 of the Limitation of Actions Act order 37 rule 6(1) of the Civil Procedure Rules, Section 1A, 1B and 3A of the Civil Procedure Rules, Section 1A, 1B and 3A of the Civil Procedure Act and all other enabling provisions of the law.

2. It seeks orders

1. Spent.

2. That the applicant be allowed to file a part of the claim out of time.

3. That upon grant of orders sought the annexed pleadings be deemed to be properly filed upon payment of the requisite fees.

3. The grounds are on the face of the application and are set out in paragraphs (1) to (9).

4. The application is supported by the affidavit of Mary Wangari Kiarie, the Intended Plaintiff herein sworn on the 14th January 2019.

5. I have considered the application and the supporting affidavit. The intended plaintiff admits there was an earlier case being HCCC No. 542 of 2008 which was dismissed for want of prosecution. The intended plaintiff/applicant does not state why she did not apply for reinstatement of that suit. I find this application to be mischievous and an abuse of the court process.

6. No sufficient cause has been shown by the intended plaintiff/applicant to warrant this court to grant the orders sought.

7. I find no merit in this application and the same is dismissed.

It is so ordered.

Dated, signed and delivered in Nairobi on this 26th day of September 2019.

.....

L. KOMINGOI

JUDGE

In the presence of:-

Mr. Wambugu advocate for the Intended Plaintiff

No appearance for the Intended Defendant

Kajuju - Court Assistant