



**REPUBLIC OF KENYA**

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

**ELC CASE NO. 160 OF 2014**

**RAZARO M'AMAI M'RUKUNGA .....PLAINTIFF/APPLICANT**

**VERSUS**

**SABERA NKINA .....DEFENDANT/RESPONDENT**

**RULING**

1. This suit was dismissed on 7.5.2018 for want of prosecution triggering the filing of the application dated 25.5.2018 where plaintiff seeks the reinstatement of the suit. Plaintiff avers that he is interested in the case. He explains that on the date matter was listed for notice to show cause, his advocate was abruptly called to another court. Somehow the counsel who was left to hold brief did not manage to address the court.

2. The respondent has opposed the application via her replying affidavit. She avers that plaintiff has not taken any steps for a period of 3 years to prosecute the suit prior to the suit being dismissed. She also avers that Mr. Ayub Anampiu, the counsel who was allegedly holding brief for Mr. Rimita, advocate for applicant has not sworn any affidavit to state what actually happened on 7.5.2018 and that the firm of Mr. Rimita has more than 3 advocates.

3. I have considered all the arguments raised herein as well as the submissions of the parties. Indeed there is no plausible explanation as to why no steps were taken to prosecute the case for a period of 3 or so years. However, I have considered the promptness with which this application was brought forth. The suit was dismissed on 7.5.2018 and in less than a month, plaintiff had filed the present application.

4. Even though this court has been keen to clear the backlog of cases in this station, I must consider the circumstances of each case. This particular case was filed in 2014 October so it was about 3 ½ years old by the time of dismissal. It was certainly not in the category of the very old cases in this station. Considering that applicant appears vigilant, I am inclined to grant him another opportunity to prosecute his case.

5. The application dated 25.5.2018 is hence allowed but with costs to respondent.

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 25<sup>TH</sup> DAY OF SEPTEMBER, 2019 IN THE PRESENCE OF:-**

C/A: Kananu

Mbogo holding brief for Rimita for applicant

Gitonga JGH holding brief for Ndubi for respondent

Applicant

**HON. LUCY. N. MBUGUA**

**ELC JUDGE**