



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KISUMU

ELC CASE NO. 56 OF 2017 (O.S)

IN THE MATTER OF THE LIMITATION OF ACTIONS ACT CAP 22 LAWS OF KENYA

AND

IN THE MATTER OF LAND REGISTRATION ACT 2012

AND

IN THE MATTER OF LAND PARCEL TITLE NO. SOUTH UGENYA/RANGALA/116

BETWEEN

AGNES OCHOL OGOLA

COLLINS OTIENO NJERO.....PLAINTIFFS

VERSUS

ANANIA OMONDI NJERO OTUNDO.....DEFENDANT

RULING

1. The application before court is dated 4/3/2019 seeking orders that the order for want of prosecution issued herein on 30/10/2018 be set aside and or reviewed.
2. The application is made on the grounds that the order for dismissal was made prematurely and that there is a clear error on the face of record.
3. The Defendant filed grounds that the application is misconceived, bad in law and abuse of process of court.
4. I have considered the application, grounds of opposition and submissions filed by the Plaintiff and do find that there is an error apparent on the face of record as the N.T. S. C was to be heard on 1/11/2018 but was placed before the Judge in unclear circumstances on 30/10/2018 and the suit was dismissed for want of prosecution. The application is merited and is hereby allowed *ex debito justitiae*. The upshot of above is that the suit is hereby reinstated.

Orders accordingly.

A. O. OMBWAYO

ENVIRONMENT & LAND

JUDGE

DATED AND DELIVERED THIS 25TH DAY OF OCTOBER, 2019.

In the presence of:

Mr. Manuri for Plaintiffs

No appearance for Defendant

A. O. OMBWAYO

ENVIRONMENT & LAND

JUDGE