

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT
AT MACHAKOS
ELC. CASE NO. 70 OF 2008

ANTHONY NDUNDA MWANIKI.....PLAINTIFF

VERSUS

WAVINYA BERNARD NZOMO.....DEFENDANT

RULING

1. In the Application dated 19th April, 2017, the Plaintiff is seeking to set aside and or vary the orders of this court of 20th March, 2017, and have the suit reinstated.
2. The Application is premised on the grounds that when the matter came up for hearing on 20th March, 2017, the same was not on the cause list; that the Plaintiff proceeded to the registry to inquire about the matter and that he was referred to the Deputy Registrar.
3. The Applicant has deponed that when his advocate went to the Deputy Registrar's chamber, he was informed that the matter had been placed before this court and that is when he found the matter had been dismissed for want of prosecution.
4. The Application was not opposed by the Defendant.
5. It would appear that this matter did not appear on the daily cause list of 20th March, 2017 when the matter came up for hearing.
6. Consequently, I will accept the Plaintiff's deposition that his advocate delayed coming to court because he was trying to locate the file.
7. In the circumstances, I allow the Application dated 19th April, 2017 as prayed.

DATED, DELIVERED AND SIGNED IN MACHAKOS THIS 26TH DAY OF JANUARY, 2018.

O.A. ANGOTE

JUDGE