



REPUBLIC OF KENYA.

IN THE HIGH COURT OF KENYA

AT BUNGOMA.

MISC. CIVIL APPLICATION NO. 242 OF 2000.

IN THE MATTER OF AN APPLICATION BY

EUPHAMIA N. MAKOKHA FOR JUDICIAL REVIEW.

AND.

IN THE MATTER OF THE LAND DISPUTES ACT CHAPTER 18 OF 1990.

AND.

IN THE MATTER OF THE LAW REFORM ACT CHAPTER 26 LAWS OF KENYA.

AND.

IN THE MATTER OF THE PROVINCIAL LAND DISPUTES TRIBUNAL APPEALS

COMMITTEE - WESTERN PROVINCE APPEALS NUMBER 13 OF 1999.

REPUBLIC.....APPLICANT

VERSUS.

CHAIRMAN WESTERN PROVINCE

PROVINCIAL LAND APPEALS COMMITTEE....RESPONDENT

AND.

FELISTER ANDATI ODERA.....INTERESTED PARTY

EUPHAMIA N. MAKOKHA.....EXPARTE/APPLICANT

RULING.

[1]. On 16/5/2016 this court ordered the parties herein to fix the application of 2/12/2015 for hearing within 30 days failing which it stands dismissed. The parties were ordered to pay Kshs.1,000/= each as court adjournment fees. They did not comply with the court order and they never paid the Court adjournment fees.

[2]. The matter came up before the court on 22/5/2017. The parties were served with a notice for dismissal none attended and the suit was dismissed under order 17 rule 2 of the Civil Procedure Rules. The applicant filed this Motion to review, vary and/or set aside the orders made on 22/5/2017.

Firstly, this court cannot entertain this Motion as the parties are in contempt of the court order of 16/5/2016. They persist in such contempt with impunity. Secondly, the case was dismissed pursuant to this courts initiative under order 17(2) of the Civil Procedure Rules. Once a suit is dismissed under that rule the court is functus official and the only option is to appeal. The application herein is without merit and is dismissed with no order as to costs.

Ruling read in open Court.

Dated at Bungoma 22nd day of February, 2018.

S. MUKUNYA

JUDGE

In the presence of:

Joy: Court Assistant

Isye for Madam Chunge for Interested party

Mr. Olonyi for Areba & Co.