



**REPUBLIC OF KENYA**

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

**CHUKA ELC CASE NO. 212 OF 2017**

**FORMERLY MERU ELC. 152 OF 2011 (OS)**

**IRVINE MWENDA JAPHET .....PLAINTIFF**

**VERSUS**

**M'KANGA M'RWITO KANYINYIRO.....DEFENDANT**

**RULING**

1. Parties in this suit are in the habit of failing to come to court without proffering any explanation. For example on **19.9.2017**, the parties by consent, agreed to come to court for directions on **24.10.2017**.
2. On **24.10.2017**, the parties did not come to court. The court directed that notice be issued for parties to come to court for directions on **13.11.2017**.
3. Notice was duly served. On **13.11.2017**, they, once again, failed to come to court. The court ordered that notice be issued for the parties to come to court for **HEARING** of the suit on **24.1.2018**.
4. On **24.1.2018**, once again, the parties ignored this court's notice requiring them to come to court for hearing of this suit. As required by **Order 12 Rule 1 of the Civil Procedure Rules**, the suit was called on for hearing outside the court. Neither party was present.
5. This court was constrained to invoke the provisions of **Order 12 Rule 1 of the Civil Procedure Rules** and resolved to dismiss this suit.
6. Section 3(1) of the Environment and Land Court Act sets out its principal objective as to enable the court to facilitate the just, expeditious, proportionate and accessible resolution of disputes pertaining to land and the environment. Where it is demonstrated that the litigants have been indolent, as outrightly evinced in this matter, dismissal of a suit will facilitate the just, expeditious and proportionate resolution of the apposite dispute. Such a dismissal will also capture the overriding objective enunciated by section 1 (A) of the Civil Procedure Act.
7. In the circumstances, this suit is dismissed.

Delivered in open court at Chuka this **7<sup>th</sup> day of February, 2018** in the presence of:

CA: Ndegwa

Parties not in court

**P.M. NJOROGE**

**JUDGE**