



**REPUBLIC OF KENYA**

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

**CHUKA ELC CIVIL APPEAL CASE NO. 01 OF 2018**

**FORMERLY MERU ELC CASE NO. 57 OF 2012**

**LOISE KATHURE MUTWIRI.....APPELLANT**

**VERSUS**

**MARETE KAMANJA.....RESPONDENT**

**RULING**

1. Notice of Listing of Appeal before the Judge for dismissal was duly issued.
2. Mr. I.C. Mugo told the court that this court's Deputy Registrar had never informed him if the appeal had been admitted or had not been admitted.
3. Order 42 Rule 35 (2) states as follows:

***“If within one year after the service of the Memorandum of appeal, the appeal shall not have been set down for hearing the registrar shall on notice to the parties list the appeal before a Judge in chambers for dismissal.”***

4. This Civil Appeal was filed in **2012 as Meru HCCA 57 OF 2012**. It is **now Chuka ELCA 1 of 2018**. The appeal has been pending unheard and undetermined for close to 7 years. This is a situation that should attract judicial deprecation and veritable opprobrium. The court record shows that the appeal was **admitted on 28<sup>th</sup> September, 2012**, over five years ago.
5. I am satisfied that the appellant has not set down the appeal for hearing for a period exceeding one year and indeed close to 7 years. The appeal, therefore, merits dismissal.
6. In the circumstances, this appeal is dismissed.
7. It is so ordered.

**Delivered in open court at Chuka this 19<sup>th</sup> day of March, 2018 in the presence of :**

CA: Ndegwa

I.C. Mugo for the Appellant

**P.M. NJOROGI**

**JUDGE**