

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MACHAKOS

ELC. CASE NO. 24 OF 2006

CHRISTINE MUKULU MUINDI.....1ST PLAINTIFF

MWANZA MUINDI2ND PLAINTIFF

VERSUS

MICHAEL MWANDIKU MUINDI.....DEFENDANT

RULING

1. In the Notice of Motion dated 1st February, 2018, the Plaintiff is seeking for the reinstatement of the suit that was dismissed by the court on 22nd March, 2017.
2. The Application is premised on the grounds that the Plaintiffs and their advocates were not aware that the suit had been fixed for Notice to show cause on the day it came up for dismissal; that the Plaintiff's case closed on 30th June, 2009 and that what was pending was the Defence case.
3. The Application was not opposed by the Defendant.
4. According to the record, this suit came up for the dismissal of the suit for want of prosecution on 22nd March, 2017. The Notice to show cause why the suit should be dismissed ought to have been served on both the Plaintiff and the Defendant's advocate. According to the record, none of the advocates were in court on 22nd March, 2017.
5. I have perused the copy of the notice of show cause that is on record. The said copy does not have the stamp of the Plaintiff's advocate showing that it was received. In the circumstances, and in the absence of evidence that the Plaintiff's advocate was served with the said Notice to show cause why the suit should not be dismissed, I shall set aside the orders of the court dismissing the suit.
6. For those reasons, I allow the Application dated 1st February, 2018 on condition that the suit is fixed for hearing within 120 days from the date of this Ruling.

DATED, DELIVERED AND SIGNED IN MACHAKOS THIS 20TH DAY OF JULY, 2018.

O.A. ANGOTE

JUDGE