



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT CHUKA**

**CHUKA ELC CASE NO. 202 OF 2017**

**FORMERLY MERU ELC. 198 OF 2013**

**JACOB MAKUNYI.....PLAINTIFF**

**VERSUS**

**DIEGO NKAMBI.....DEFENDANT**

**RULING**

1. This application is dated **2<sup>nd</sup> July, 2018** and seeks orders:

- a) That the dismissal order issued on the 17.1.2018 be set aside.
- b) That the suit be reinstated for hearing.
- c) Costs of the application be costs in the cause.

2. It has the following grounds:

1. That the suit was dismissed without notice to the applicant.
2. That had the applicant been given notice to show cause sufficient cause would have been shown to the satisfaction of the court.
3. That the applicant has been greatly prejudiced by the dismissal.
4. That the dismissal has denied the applicant an opportunity to be heard while he has a good case.

3. When the matter was heard interpartes on 18.7.2018, Mr. Mwenda told the court that he and his client had not been served with the notice to show cause. He told the court that the parties had substantially complied with order 11, CPR and that the suit was ready for hearing.

4. Mr. Charles Muchiri, holding brief for Mr. Nyamu Nyaga for the defendant, told the court that the defendant was not opposed to the application.

5. In the interest of justice, this application is allowed.

6. Costs shall be in the cause.

7. Suit to be heard on 18<sup>th</sup> September, 2018.

8. It is so ordered.

**Delivered in open court at Chuka this 18<sup>th</sup> day of July, 2018 in the presence of:**

CA: Ndegwa

Murango Mwenda for the plaintiff

Charles Muchiri h/b Nyamu Nyaga for the defendant

**P.M. NJORGE**

**JUDGE**