

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

ELC CASE NO 94 OF 2015

MARGARET NGINA IGOGO.....1ST PLAINTIFF

ALLAN MBUGUA IGOGO.....2ND PLAINTIFF

VERSUS

MONICA WAITHIRA TICHA.....1ST DEFENDANT

THE LAND REGISTRAR – KIAMBU.....2ND DEFENDANT

RULING

1. On 23/6/2017, the plaintiff brought a Notice of Motion dated 6/6/2017 seeking a reinstatement of this suit. It was premised on the ground that on 22/5/2017 when the suit came up for hearing, the 1st plaintiff who was to give evidence in the suit was in poor health. The application was supported by the affidavit of Margaret Ngina Igogo (1st plaintiff) sworn on 6/6/2017. She deposed that she had agreed with the 2nd plaintiff that she would be the one to give evidence. On the morning of 22/5/2017, she fell sick and could hardly stand up without being supported. She attended Wangige Sub-County Hospital where she received treatment. She urged the Court to reinstate the suit.

2. The application was not opposed. Mr. Mwaura Shairi Counsel for the applicant urged the court to reinstate the suit.

3. I have considered the application. I have also considered the explanation tendered by the plaintiffs to account for their failure to attend court. I however note that there is no explanation tendered by counsel to explain why he was not in court. My decision on the application would perhaps have been different had the respondents opposed it. In the absent of any opposition, I will reluctantly exercise the court's discretion in favour of the applicants. I allow the application and reinstate the suit.

DATED, SIGNED AND DELIVERED AT NAIROBI ON THIS 28TH DAY OF SEPTEMBER 2018.

B M EBOSO

JUDGE

In the presence of:-

Mr Mbaji holding brief for Mwaura Advocate for the plaintiff

June Nafula - Court Clerk