



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA AT NAKURU

JR NO. 55 OF 2011

SIMALE OLE SITO.....APPLICANT

VERSUS

THE COURT OF THE DISTRICT COMMISSIONER

NAROK DISTRICT.....1ST RESPONDENT

LEMOMO OLE NCHOE.....2ND RESPONDENT

DANIEL ISAAK NCHOE.....3RD RESPONDENT

RULING

(Dismissed of suit for want of prosecution; more than 3 years having lapsed since last action by ex-parte applicant; suit dismissed).

1. On 18 June 2018, I directed that the suit be placed before me today, for the ex-parte applicant to show cause why it should not be dismissed for want of prosecution.
2. Mr. Maiyo who held brief for Mr. Mogikoyo for the ex-parte applicant, submitted inter alia that this file is related to another, Narok ELC No 240 of 2017, and he requested that this file be transferred to Narok ELC.
3. Mr. Andama for the 2nd and 3rd respondents, submitted that he is not aware of this other suit and urged me to dismiss this case for want of prosecution.
4. I have considered the rival submissions.
5. It is on record that no effort to move this matter has been made by the ex-parte applicant since 9 December 2014 when a date for 25 March 2015 was taken but the court did not sit on that day. Nothing has been done by the ex-parte applicant to have this matter heard since that date.
6. It is certainly more than 3 years since the ex-parte applicant attempted to move the court. I have not been given a single reason why the ex-parte applicant has not made any attempt to list his case for hearing. All that I have been told today is to transfer the file to Narok ELC, because it is claimed that there is another related matter before that court. I have not seen any pleadings for this Narok case, for counsel availed none. I therefore have nothing before me, to inform me that this case is related to any other. Be that as it may, what I have before me is a specific case for Judicial Review.
7. It is incumbent upon all litigants to move their cases. If no step is taken within one year, the court has discretion to dismiss the suit for want of prosecution as provided for under order 17 Rule 2.
8. I am afraid that the ex-parte has not preferred to this court any reason why he has never moved the court since the year 2014. The only conclusion I can reach is that he is no longer interested in this suit. Today, he is not even present in court.
9. I have no option but to dismiss this case for want of prosecution, and I so dismiss it, with costs to the respondents.
10. Orders accordingly.

Dated, signed and delivered in open court at Nakuru this 28th day of September 2018.

JUSTICE MUNYAO SILA

ENVIRONMENT & LAND COURT AT NAKURU

In presence of: -

Mr. Maiyo holding brief for Mr. Mogikoyo for the ex-parte applicant.

Mr. Andama present for the 2nd and 3rd respondents.

Court Assistant: Nelima.

JUSTICE MUNYAO SILA

ENVIRONMENT & LAND COURT AT NAKURU