

REPUBLIC OF KENYA

IN THE LAND AND ENVIRONMENT COURT OF KENYA AT KAKAMEGA

LAND CASE NO. 291 OF 2013

DAVID NALUNDI LUSICHE.....PLAINTIFF / APPLICANT

- VERSUS -

SHEBAN LUSICHE ECHESA.....1ST DEFENDANT/ RESPONDENT

MARIAM KUNAKA WALUKOYA.....2ND DEFENDANT/RESPONDENT

ZAKARIA WAMBANI OSORE.....3RD DEFENDANT/RESPONDENT

JOSHUA LURONGO EMITATI.....4TH DEFENDANT/RESPONDENT

RULING

This notice of motion is dated 20th December 2016 and is brought under Order 12 Rule 7 of the Civil Procedure Rules and Section 1A & 3A of the Civil Procedure Act, CAP 21 of the Laws of Kenya. The Plaintiff/ Applicant seeks orders as follows;

1. For the setting aside of the orders issued on the 21st April 2015 dismissing this suit for want of prosecution.
2. Costs of this application be in the cause.

The application is supported by the affidavit of the Plaintiff/ Applicant one David Nalundi Lusiche. Mr. Akwala, Advocate for the Applicant submitted that this suit was dismissed for want of prosecution by Honorable Justice Chacha Mwita prematurely and without the knowledge of the parties on the 21st April 2015. The notice of dismissal for want of prosecution was not served on the parties and there has been no Land Court Judge in Kakamega from 2015 to date. The Plaintiff has a strong case against the defendants and the case has high chances of success.

The defendants were served and have failed to attend court.

The court has considered the Plaintiffs application and the submissions therein. The defendants have not opposed the application. It is true that Kakamega has not had an Environment and Land Court Judge until now. I therefore grant the application as prayed.

Orders accordingly.

DELIVERED, DATED AND SIGNED AT KAKAMEGA IN OPEN COURT THIS 22ND DAY OF FEBRUARY 2017.

N.A. MATHEKA

JUDGE