



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO 19 OF 2017

FORMERLY MERU ELC CASE NO.65 OF 2016

FRANCIS KIRAITHE KITHARIA1ST PLAINTIFF

ERIC MAWIRA NJAGI.....2ND PLAINTIFF

MWITI NJAGI.....3RD PLAINTIFF

VERSUS

GEOFREY MUGAMBI NJAGI.....DEFENDANT

RULING

1. On 21.5.2016 the plaintiff, exparte, obtained an order of inhibition.
2. Since 21.5.2016, the plaintiff has never served the defendant. The matter was mentioned on 15.6.2016 but both parties were not in court.
3. On 7.11.2016, Mr. D.J. Mbaya told the court that he had been unable to serve the defendant. He asked the court to mention the matter on 15.12.2016.
4. On 15.12.2016 the parties did not come to court.
5. On 8.2.2016, Mr. Mbaya asked the court to grant him 30 days to serve the defendant by way of substituted service. He was granted 30 days to do so.
6. On 14.3.2017, Mr. D. J. Mbaya and his client did not come to court. There was no evidence in the court record that he had served the defendant by way of substituted service.
7. On 14.3.2017, the court had envisaged that it would hold a pre-trial conference. With the plaintiff and his advocate not being in court, and without evidence that the defendant had been served, this could not be done.
8. For ends of Justice to be met, I find it necessary to invoke the court's inherent power to make orders as it may be necessary in terms of section 3A of the Civil Procedure Act and to uphold the spirit of the provisions of Order 11 of the Civil Procedure Rules.
9. I dismiss this suit.

10. No costs are awarded.

11. It is so ordered

Delivered in open court at Chuka this 14th day of March, 2017 in the presence of:

CA: Ndegwa

Parties absent

P. M. NJOROGE

JUDGE