

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO 211 OF 2017

FORMERLY MERU ELC CASE NO.70 OF 2009

FREDRICK MUGO MUTEGI
MUTUNGA.....PLAINTIFF

VERSUS

EDWIN MURIITHI SIMON MUTEGI ALIAS

EDWIN KENNETH MURITHI MUTEGI & 6
OTHERS.....DEFENDANTS

RULING

1. This application is dated 21st March, 2017 and seeks orders that:

1. This Honourable Court do declare the suit herein to have abated.
2. Costs of this application and the main suit be provided for.

2. The application is supported by the affidavit of Edwin Murithi Simon Mutegi, the 1st defendant, sworn on 21st March, 2017.

3. Charity Kaaria Mugo, who said that she was the administrator of the plaintiff's estate, told the court that since her advocate was not in court, this matter should be allocated another hearing date.

4. I do not see the need for the application to be heard interpartes. This is because this suit was dismissed on 7th July, 2015 by the Hon. Justice Githinji, J. The suit having been dismissed is non existent. It remains dismissed.

5. Regarding abatement, one does not need to substantiate the obvious or to prove that which is pellucidly uncontrovertable.

6. I reaffirm that this suit remains dismissed. It should be removed from the register of pending cases.

7. It is so ordered.

Delivered in open court at Chuka this 4th day of April, 2017 in the presence of:

CA: Ndegwa

Charity Kaaria Mugo for the plaintiff

P. M. NJOROGE,

JUDGE.