



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT CHUKA**

**CHUKA ELC CA CASE NO. 02 OF 2017**

**FORMERLY MERU ELC CA CASE NO.56 OF 2001**

**GEREMANO MUGO MUGA.....PLAINTIFF**

**VERSUS**

**MIRITI MUGO.....1<sup>ST</sup> DEFENDANT**

**KIRUNJA MUGO.....2<sup>ND</sup> DEFENDANT**

**RULING**

1. Parties were supposed to come to court on 22.3.2017 to show cause why the suit should not be dismissed for want of prosecution in terms of order 17 rule 2(1) of the Civil Procedure Rules.
2. On 22.3.2017, Mr. Kiongo told the court that he was holding brief for Mr. Kioga for the Appellant. He told the court that Mr. Kioga was eager to have the appeal heard. He, however, told the court that he had no further instructions.
3. Miss Kaaria holding brief for Murango Mwenda for the 2<sup>nd</sup> respondent told the court that this appeal was filed in the year 2001 and was therefore 16 years old. She told the court that the period the appeal had gone unheard is testimony that the appellant was not diligent in prosecuting his case. She urged the court to dismiss the appeal. She also told the court that the appellant had not shown cause why the appeal should not be dismissed.
4. Advocate M. M. Kioga filed submissions on 3.4.2017 on behalf of the Appellant, only hours before this ruling was to be delivered. I have perused the submissions and the accompanying authorities. There is a requirement that the court should be satisfied that the suit should not be dismissed. These submissions by the appellant do not satisfy this court that this suit should not be dismissed.
5. I agree with Miss Kaaria, holding brief for Murango Mwenda for the Respondent, that for an appeal to stay unheard for 16 years, there must be a serious problem. I also agree with her that the appellant has not shown cause why the appeal should not be dismissed.
6. I find that the parties have not shown cause why the appeal should not be dismissed.
7. In the circumstances, this appeal is dismissed.
8. It is so ordered.

Delivered in open court at Meru this 4<sup>th</sup> day of April, 2017 in the presence of:

CA: Ndegwa

Manasses Kariuki h/b Murango Mwenda for the Respondent

Geremano Mugo Muga – Appellant

Kijaru h/b Kioga for the appellant

**P. M. NJOROGE,**

**JUDGE.**