

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MACHAKOS

ELC. CASE NO. 91 OF 2010

INTEGRATED DEVELOPMENT PROGRAMMES

COMPANY LIMITED.....PLAINTIFF

VERSUS

PAUL ITOTIA DAVID1ST DEFENDANT

(as personal representative ad litem of MBATHA NZINGA (deceased))

MBUKONI HOLDINGS LIMITED2ND DEFENDANT

RULING

1. The Application dated 24th October, 2016 is seeking for the dismissal of the suit with costs for want of prosecution.
2. The Application is premised on the grounds that the Defendants amended their Defence when the initial Plaintiff died; that the amended Defence was filed on 11th April, 2012; that the Plaintiff has never set down the matter for hearing since then and that it has been over four (4) years since the Plaintiff took any steps towards prosecuting the suit.
3. Although the Plaintiff's advocates were served with the Application, they never filed any response. The Application proceeded for hearing on 9th May, 2017.
4. I have perused the court record. Indeed, the Plaintiff or his advocate has never fixed the matter for hearing since the matter was filed in the year 2010.
5. In the absence of a plausible explanation as to why this matter has never been set down for hearing by the Plaintiff, and view of the provisions of Section 1B of the Civil Procedure Act which requires the court to efficiently dispose of the matters before it, I shall allow the 1st Defendant's Application dated 24th October, 2016.
6. The Plaintiff's suit is hereby dismissed with costs to the 1st Defendant.

DATED, DELIVERED AND SIGNED IN MACHAKOS THIS 30TH DAY OF JUNE, 2017.

O.A. ANGOTE

JUDGE