

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

ELC SUIT NO. 692 OF 2015(FORMERLY HCCC NO. 3041 OF 1989)

JAMES MACHARIA MWANGI.....PLAINTIFF

VERSUS

SABINA MUTHONI MWANGI.....DEFENDANT

RULING

This suit was dismissed by Mutungi J. on 7th November 2006 after it had remained dormant for a period of over 15 years. The Plaintiff has now come to court 9 years after the dismissal of the suit seeking the reinstatement of the same. I have considered the Plaintiff's application dated 15th April 2015 together with the affidavit filed in support thereof. The only reason given by the Plaintiff for the delay in the prosecution of the suit is that he was attending to a sick wife who later on passed away on 18th December 1997. I sympathize with the Plaintiff for losing a wife after a long illness. I am not satisfied however that the reason he has put forward is sufficient to warrant the reinstatement of this suit which was dismissed after it had remained dormant in court for several years. The Plaintiff has not stated when his wife fell sick and how the sickness prevented him for a period of over 15 years from proceeding with his suit in which he was represented by an advocate. The Plaintiff has also not given any explanation for his inaction after the death of his wife on 18th December 1997. The suit was dismissed 9 years after the death of his wife.

The upshot of the foregoing is that no good reason has been given to warrant the granting of the orders sought by the Plaintiff. I am of the view that it would not amount to a judicious exercise of discretion if I was to reinstate a suit 9 years after its dismissal after it had remained unprosecuted for over 15 years. The Plaintiffs Notice of Motion dated 15th April 2015 fails and is dismissed with no order as to costs.

Delivered and Signed at Nairobi this 27th day of June, 2017

S. OKONG'O

JUDGE

Ruling read in open court in the presence of:

Present in person for the Plaintiff

N/A for the Defendant

Kajuju Court Assistant