



**REPUBLIC OF KENYA**

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

**CHUKA ELC [CA] CASE NO 73 OF 2017**

**FORMERLY MERU ELC [CA] CASE NO. 217 OF 2013**

BERNARD MBIUKI GATUMU.....1<sup>ST</sup> APPELLANT

LAWRENCE KAMUNDI GICHUNGE.....2<sup>ND</sup> APPELLANT

VERSUS

CATHERINE M. KAMUNDI.....1<sup>ST</sup> RESPONDENT

DOMINIC K. GICHUNGE.....2<sup>ND</sup> RESPONDENT

**RULING**

1. Order 42 Rule 35(2) states as follows:-

(2) If, within one year after the service of the memorandum of appeal, the appeal shall not have been set down for hearing, the registrar shall on notice to the parties list the appeal before a judge in chambers for dismissal.

2. Order 17 Rule 2 of the Civil Procedure Rules states as follows:-

(1) In any suit in which no application has been made or step taken by either party for one year, the court may give notice in writing to the parties to show cause why the suit should not be dismissed, and if cause is not shown to its satisfaction, may dismiss the suit.

(2) If cause is shown to the satisfaction of the court it may make such orders as it thinks fit to obtain expeditious hearing of the suit.

3. Notices were issued for parties to come to court to show cause why the appeal should not be dismissed for want of prosecution.

4. Notice had also been issued in terms of Order 42 Rule 35(2) that the appeal had been listed for dismissal before me.

5. Only the 1<sup>st</sup> Appellant Lawrence Kamunde Gichunge came to court. He told me that he had left prosecution of this appeal to his advocates.

6. I find that no satisfactory explanation has been proffered to me as to why this appeal should not be dismissed.

7. In the circumstances, this appeal is dismissed.

8. I issue no order as to costs.

9. It is so ordered.

Delivered in open court at Chuka this 25<sup>th</sup> day of July, 2017 in the presence of:

CA: Ndegwa

Lawrence Kamundi Gichunge - Appellant

**P.M. NJOROGI**

**JUDGE**