



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC [CA] CASE NO 74 OF 2017

FORMERLY MERU ELC [CA] CASE NO. 96 OF 2013

IGNATIUS FESTUS NJAGI.....APPELLANT

VERSUS

AUSILIA SAMUEL MANKUNYU.....RESPONDENT

RULING

1. Parties were given notice to come to court to show cause why the appeal should not be dismissed for want of prosecution.
2. Order 42 rule 35 Civil Procedure Rules, decrees as follows:
 - (1) Unless within three months after giving of direction under rule 13 the appeal shall have been set down for hearing by the appellant, the respondent shall be at liberty either to set down the appeal for hearing or to apply by summons for its dismissal for want of prosecution.
 - (2) If, within one year after 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.
3. This appeal was properly listed for dismissal after notice by the registrar to the parties.
4. The appellant told me that he had not set the suit down for hearing because he was waiting at home for the government to summon him.
5. The respondent asked the court to dismiss this appeal.
6. I find that notice had also been issued in terms of order 17 Rule 2(2) Civil Procedure Rules.
7. I find that in terms of both order 17 Rule 2(2) Civil Procedure Rules and Order 42 Rule 35(2) Civil Procedure Rules, no cause has been shown to the satisfaction of the court that the appeal should not be dismissed.
8. In the circumstances, this appeal is dismissed.
9. I issue no order as to costs.
10. It is so ordered

Delivered in open court at Chuka this 25th day of July, 2017

in the presence of:

CA: Ndegwa

Ignatius Festus Njagi - Appellant

Ausilia Samuel Mankunyu- Respondent

P. M. NJOROGE

JUDGE