

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC [CA] CASE NO 77 OF 2017

FORMERLY MERU ELC [CA] CASE NO. 54 OF 2013

M'MUCHIRI MUKINDIA APPELLANT

VERSUS

JOSEPHINE MARY GAJI..... RESPONDENT

RULING

1. Parties came to court to show cause why this suit should not be dismissed for want of prosecution in terms of Order 17, Civil Procedure Rules.
2. Parties had also been given notice that this suit would be listed for dismissal before me on 25.7.2017 in terms of Order 42, Civil Procedure Rules.
3. On 25.7.2017, a lady called Mercy Muthoni Muchiri produced a doctor's letter saying that the appellant had a mental illness. The letter was signed by Dr Thuo J. N., a consultant psychiatrist. The letter though it said the appellant had senile dementia said that he was fully aware of his surrounding environment and that his thought content and perception were normal.
4. The respondent, Mary Josephine Gaji told the court that she had won this suit both at the District and Provincial Tribunals. She told the court that the appellant had, at the provincial tribunal, said that the suit land should belong to her and Eustus Njeru. She claimed that it was his sons who had incited him to file this appeal.
5. The Respondent urged the court to dismiss the appeal for lack of prosecution.
6. I find that the appellant has not shown to the satisfaction of the court why the appeal should not be dismissed both in terms of orders 17 and 42 of the Civil Procedure Rules.
7. In the circumstances, this appeal is dismissed.
8. It is so ordered.

Delivered in open court at Chuka this **25th day of July, 2017** in the presence of:

CA: Ndegwa

Mary Josephine Gaji – Respondnet

Mary Muthoni Muchiri – Appellant's daughter

P. M. NJOROGE

JUDGE