



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO 101 OF 2017

FORMERLY MERU ELC CASE NO.53 OF 2008

CALVARY INTERNATIONAL MINISTRIES THROUGH REGISTERED

TRUSTEES.....PLAINTIFF

VERSUS

EUSTACE NYAG ANGATUNI..... 1ST DEFENDANT

JESUS TABERNACLE INTERNATIONAL MINISTRIES

THROUGH REGISTERED TRUSTEES2ND DEFENDANT

RULING

1. This application is dated 28th January, 2015 and seeks orders:

1. That the honourable court be pleased to dismiss the matter herein for want of prosecution.
2. That costs of this application be provided for.

2. The application is buttressed by the affidavit of **EUSTACE NYAGA NGATUNI**, the defendant and has the following grounds:

1. That the plaintiff/ respondent has lost interest in the matter.
2. That the Honourable court should take notice that this is the 2nd time we are filing a similar application to dismiss suit for want of prosecution.
3. That indeed the last time the matter was in court was on 16.12.2013 exactly one year ago.
4. Therefore this matter ought to be dismissed as the plaintiffs are in no hurry to prosecute the matter because they are enjoying possession of the suit property.

3. The parties filed written submissions in support of their respective assertions and propositions.

It is noted that this is the 2nd time a similar application has been filed in court.

4. I have carefully considered the submissions proffered by the parties. I have also considered the history

of the suit narrated by the plaintiff and the reasons adduced in its assertion that the suit should not be dismissed.

5. Order 17 Rule 2 (1) requires the parties to show cause to the satisfaction of the court why the suit should not be dismissed.

6. I find that the plaintiff has shown to the satisfaction of this court that this suit should not be dismissed.

7. In the circumstances, this application is dismissed.

8. The plaintiff is ordered to fully comply with order 11, Civil Procedure Rules within 30 days of today and the defendants are ordered to fully comply with order 11, Civil Procedure Rules, within 30 days after receipt of the plaintiff's compliance documents.

9. The plaintiff is ordered to serve the orders issued by the court today upon the defendants within 14 days of today.

10. Parties will come to court for directions on 9.10.2017

11. Costs shall be in the cause.

Delivered in open court at Chuka this **19th day of July, 2017** in the presence of:

CA: Ndegwa

Rimita for the plaintiff

P. M. NJOROGE

JUDGE