



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT
AT CHUKA
CHUKA ELC [CA] CASE NO 04 OF 2017
FORMERLY MERU ELC [CA]CASE NO. 34 OF 2006
NEW MAGUMONI FARMERS CO-OPERATIVE SOCIETY LTD.....APPELLANT
VERSUS
EUSTUS MUTUA MUSYOKA.....RESPONDENT

RULING

1. This application is dated 26.3.2015 and seeks orders:

1. THAT the appellant's appeal be dismissed for want of prosecution.
2. THAT the costs for this application and the main appeal be paid by the appellant.

2. The appeal has the following grounds:

- a. THAT the appellant's appeal be dismissed for want of prosecution.
- b. THAT the costs for this application and the main appeal be paid by the appellant.
- c. THAT the appeal was last in court on 17.4.2008
- d. THAT the appellant must have lost interest in the appeal
- e. THAT the respondent is suffering and continues to suffer irreparable damages as an order of inhibition was placed on his land NO.MAGUMONI/MUKUUNI/663
- f. THAT the order of stay in Chuka LDT Case NO.42/2002 has paralyzed the respondent's judgment.
- g. THAT it is in the interests of justice and fair play that the appeal be dismissed.

3. The application was canvassed by way of written submissions.

4. I have carefully considered the assertions proffered by the parties in support of their diametrically opposed assertions. In the interest of Justice, I find that the appellant has demonstrated that he is willing to prosecute this appeal.

5. In the circumstances, the application is dismissed with the costs to be in the cause.

6. The appellant is ordered to file and exchange his written submissions within 30 days of today and the respondent is to do so within 30 days after receipt of the appellant's submissions. Should the appellant not file his submissions within 30 days of today, this Appeal will merit dismissal.

7. The appellant should serve upon the respondent the orders issued by the court today within 10 days of today.

8. Directions on 24.10.2017.

9. It is so ordered.

Delivered in open court at Chuka this **13th day of July, 2017** in the presence of:

CA: Ndegwa

D.J. Mbaya for the Appellant

P. M. NJOROGE

JUDGE