



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT**

**AT CHUKA**

**CHUKKA ELC CASE NO. 219 OF 2017**

**FORMERLY MERU ELC 112 OF 2010**

**Z.M'NAIROBI M'RUTHIOMI SUING**

**THROUGH PHIMINOS K.**

**ZACHARY AS THE NEXT FRIEND.....1<sup>ST</sup> PLAINTIFF**

**MUJIRA MARIENE.....2<sup>ND</sup> PLAINTIFF**

**VERSUS**

**STANELY NGAI M'RAINI.....1<sup>ST</sup> DEFENDANT**

**SANTURINA MUGERO SUED AS THE LEGAL**

**REPRESENTATIVE OF MWENDA NAINCU.....2<sup>ND</sup> DEFENDANT**

**LAND ADJUDICATION AND SETTLEMENT**

**OFFICER MERU SOUTH/MAARA DISTRICT....3<sup>RD</sup> DEFENDANT**

**HONOURABLE ATTORNEY GENERAL.....4<sup>TH</sup> DEFENDANT**

**RULING**

1. This application concerns an application for reinstatement of the suit dated 30.11.2017. It seeks the following orders:-

1. That this suit be reinstated and the same be set (sic) for hearing.
2. Cost of this application be provided for.

2. It has the following grounds:-

- a) That this suit was dismissed for want of prosecution on 8<sup>th</sup> July, 2015.

- b) That neither the applicant nor the counsel for the applicant was served with the notice to show cause.
- c) That for a very long time counsel for the plaintiff/applicant has been tracing the file in the registry without success.
- d) That the plaintiff/applicant is interested in prosecuting his case.
- e) That it was as recently as August 2016 that counsel for the plaintiff/applicant came to learn that the suit had been dismissed for want of prosecution.
- f) That while the applicant admits that justice delayed is justice denied it will be in the interest of justice that the applicant be granted another chance to articulate his interest as set out in the plaint.
- g) That it was not the respondent/defendant who moved the court to have his suit dismissed for want of prosecution but the court itself consequently this being a court of equity it's only fair that the applicant be allowed a chance to prosecute his case.
- h) No party stand to suffer any prejudice if the orders sought are granted more so noting that the suit was not dismissed at the instance of the defendant/respondent.

3. This suit was dismissed on 8<sup>th</sup> July, 2015.

4. On 1<sup>st</sup> December, 2016, the plaintiff's advocate filed an application for reinstatement of the suit dated 1<sup>st</sup> December, 2016. No efforts have been made to prosecute this application.

5. It is over one year since this application was filed.

6. The non-prosecution of this application places the court in a precarious situation as it cannot issue a Notice to Show Cause why the suit cannot be dismissed for want of prosecution when the suit is already dismissed.

7. In the circumstances, this application is dismissed summarily.

8. It is reiterated that this suit remains dismissed.

9. No costs are awarded

10. It is so ordered

Delivered in chambers at Chuka this **20<sup>th</sup> day of December, 2017** in the presence of:

CA: Ndegwa

**P.M. NJOROGE**

**JUDGE**