



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC CASE NO. 131 OF 2012

FRANCIS MURUNGI M’IBAYA.....PLAINTIFF

VERSUS

FESTUS KABERIA M’ANAMPIU.....1ST DEFENDANT

MUTIGA MICHUKI.....2ND DEFENDANT

JULIUS MARETE.....3RD DEFENDANT

VIRGINIA KAARI.....4TH DEFENDANT

GERVASIO MITHEO.....5TH DEFENDANT

SIMON KAMUNDI LARAMA.....6TH DEFENDANT

JOSEPH MWIMBI.....7TH DEFENDANT

THE LAND ADJUDICATION OFFICER

TIGANIA EAST/WEST DISTRICTS.....8TH DEFENDANT

THE HONOURABLE ATTORNEY GENERAL.....9TH DEFENDANT

RULING

The orders of the Court given on 2.10.17 read as follows:-

“The plaintiff’s side is given a FINAL CHANCE to serve all the suit papers and the application of 21.6.16 to all the defendants, failure to which the suit and the application will stand as dismissed by the next Court date.”

The next Court date was 30.10.17. The plaintiff’s counsel averred that they had not served a 7th defendant because their amended plaint was only filed on 27.10.17. It was also averred that, service had been effected upon 1st, 4th, 6th, 8th and 9th defendants but there was an oversight in filing the affidavit of service.

Plaintiff’s side wanted more time to effect service.

The 2nd / 5th defendant's advocate opposed this move averring that they were only served with an amended plaint yet, the plaintiff's application of 8.12.14 (to have the plaint amended) had been abandoned.

The 3rd defendant associated himself with the sentiments advanced by the 2nd and the 5rd defendants.

I find that this suit is still at the infancy stage despite the fact that it is more than five years old. Why so? Because of want of service of the suit papers and application of 21.6.16.

The wording of the Court order of 2.10.17 is crafted in a manner that puts the plaintiff on notice. The suit stood as dismissed in the event that there was no compliance with the courts orders of 2.10.2017 regarding service upon all concerned parties as at 30:10:17.

It came to be that by 30.10.17, there was no evidence of service upon 1st, 4th, 6th, 7th, 8th and 9th defendants. It follows that there are no orders to extend as there is no suit.

The suit and the application of 21.6.16 stand as dismissed.

DELIVERED, DATED AND SIGNED AT MERU THIS 15TH DAY OF NOVEMBER, 2017 IN THE PRESENCE OF:-

CA: Janet/Haway

Mutinda H/B for Ngunjiri for 2nd and 5th defendants present

Njenga H/B for Ndubi for Plaintiff present.

Hon. L. N. MBUGUA

ELC JUDGE