



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT
AT MALINDI
ELC CIVIL CASE NO.120 OF 2013

1. MAURINE AKINYI MALOBA

2. LINET PESA MALOBA.....PLAINTIFFS/RESPONDENTS

=VERSUS=

ABBAS ABUBAKAR ALWI.....DEFENDANT/APPLICANT

R U L I N G

1. What is before me is the Application by the Defendant dated 29th October 2014 seeking for the following orders:
 - (a) **That this suit be dismissed for want of prosecution.**
 - (b) **That the costs of the suit be awarded to the Defendant**
2. The Application is premised on the grounds that since the suit was filed in the year 2013, the Plaintiffs have not prosecuted the suit; that the Plaintiffs have lost interest in the suit and that the prolonged existence of the suit is prejudicial to the Defendant.
3. In her reply, the 1st Plaintiff deponed that it is not true that she lost interest in the suit; that she has been struggling to get crucial documents in their original form from the Defendant's advocate and that they have now received the documents and are ready to prosecute the suit.
4. The parties' advocates filed written submissions which I have considered. I have also considered the authorities on record.
5. The last time this matter came up was on 20th November 2013 when this court dismissed the Plaintiffs' Application for injunction for want of prosecution. Since then, the Plaintiffs did not fix the matter for hearing.
6. Indeed, by the time this Application was filed by the Defendant, the matter had been in court for more than one (1) year.
7. The reasons given by the Plaintiffs that they were waiting to receive crucial documents from the Defendant's advocate are not plausible.
8. However, considering that this is a land matter, which is generally an emotive issue in this country, I shall grant to the Plaintiffs the last opportunity to prosecute their suit.
9. In the circumstances, I direct that the Plaintiffs fix the matter for hearing within ninety (90) days, excluding the days the court shall be on vacation from the date of this Ruling and if not, this matter shall stand dismissed with costs.
10. The Plaintiffs shall bear the costs of the Application.

Dated and delivered in Malindi this **11th** day of **September** 2015.

O. A. Angote

Judge