



Case Number:	Environment and Land Case 173 of 2017
Date Delivered:	20 Dec 2017
Case Class:	Civil
Court:	Environment and Land Court at Chuka
Case Action:	Ruling
Judge:	Peter Muchoki Njoroge
Citation:	Godfrey Mate v Attorney General [2017] eKLR
Advocates:	-
Case Summary:	-
Court Division:	Land and Environment
History Magistrates:	-
County:	Tharaka Nithi
Docket Number:	-
History Docket Number:	-
Case Outcome:	Suit dismissed
History County:	-
Representation By Advocates:	-
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-
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REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LANDCOURT
AT CHUKA
CHUKA ELC CASE NO.173 OF 2017
FORMERLY MERU ELC CASE NO. 186 OF 2011
GODFREY MATE.....PLAINTIFF
VERSUS
THE HONOURABLE ATTORNEY GENERAL.....DEFENDANT

RULING

1. This ruling concerns a Notice to Show Cause which was issued to the parties on 30th November, 2017. The parties were to show cause on 18th December, 2017.

2. On 18th December, 2017, Mr. Otieno, holding brief for Mr. Njeru Nyaga for the plaintiff, told the court that the plaintiff had been sick for a long time and that explained why no step had been taken in the suit for a period of more than one year as envisaged by Order 17 rule 2(1) of the Civil Procedure Rules. He told the court that the plaintiff died recently and was buried two weeks ago.

3. This court expresses its sadness regarding the plaintiff's demise.

4. Order 17 Rule 2 of the Civil Procedure Rules reads as follows:

(1) In any suit in which no application has been made or step taken by either party for one year, the court may give notice in writing to the parties to show cause why the suit should not be dismissed, and if cause is not shown to its satisfaction, may dismiss the suit.

(2) If cause is shown to the satisfaction of the court it may make such orders as it thinks fit to obtain expeditious hearing of the suit.

(3) Any party to the suit may apply for its dismissal as provided in sub-rule 1.

(4) The court may dismiss the suit for non-compliance with any direction given under this order.

5. I do note that the last step taken by the plaintiff in this matter took place on 5th February, 2015 when the plaintiff's advocate filed a letter dated 25th November, 2015 asking the defendant to send his representative to court to fix a pre-trial date. No action has been taken by both parties in the suit since then.

6. It is clear that for close to 3 years no step has been taken. I opine that this constitutes inordinate delay in the hearing and determination of this suit. I find that no satisfactory cause has been shown to the satisfaction of this court that this suit should not be dismissed for want of prosecution in terms of Order 17 rule 2(1) of the Civil Procedure Rules.

7. In the circumstances, this suit is dismissed.

8. There is no order as to costs.

9. It is so ordered.

Delivered in open court at Chuka this **20th day of December, 2017**

in the presence of:

CA: Ndegwa

Parties absent

P.M. NJOROGE

JUDGE



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