

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

SUCCESSION CASE NO. 1357 OF 2012

IN THE MATTER OF THE ESTATE OF KIBANYA GICHERO (DECEASED)

GICHERO KIBANYA.....3RD ADMINISTRATOR/APPLICANT

MICHAEL NJERU KIBANYA.....2ND APPLICANT

MARY WANJIRA KIBANYA.....3RD APPLICANT

VERSUS

PETER KIBANYA GICHERO.....1ST RESPONDENT

BENSON WACHIRA KIBANYA.....2ND RESPONDENT

RULING

1. This matter was last in court on 19/07/2021 when a preliminary objection dated 25/05/2021 was argued orally before the court. The ruling on the preliminary objection was scheduled for delivery on 26/08/2021.
2. As the court set to prepare the ruling, I came across a Notice of withdrawal of the application dated 15/04/2021. This application is the one that formed the basis of the preliminary objection now pending ruling. The notice is dated 19/07/2021 and was filed in court on 22/07/2021 by M.P Mwangi & Co. Advocates. It is noted that the application was filed in the court registry only three(3) days after the hearing of the application.
3. An applicant is at liberty to withdraw his/her application. Although this matter is pending ruling, I find no good reason to refuse withdraw for it will not serve the interests of justice.
4. I note that the respondent's counsel Mrs Wahome had not filed a replying affidavit but preferred to file a Preliminary objection.
5. As for costs, this being a family/succession cause, I hereby direct that each party meet their own costs.
6. The application dated 15th April 2021 is hereby marked as withdrawn.

DELIVERED, DATED AND SIGNED AT NYERI THIS 26TH DAY OF AUGUST, 2021.

F. MUCHEMI

JUDGE

Ruling delivered through videolink this 26th day of August, 2021.