

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

MISC. SUCC. NO.35 OF 2006

**IN THE MATTER OF AN APPLICATION BY JAVAN MWARARI GIKUNJU MUGWE
(DECEASED)**

SAMUEL MWANGI

NDABURUAPPLICANT

VERSUS

FRANCIS GAKONO GIUTE 1ST RESPONDENT

JOSPHAT MURIUKI MBOYI 2ND
RESPONDENT

GABRIEL LAZARUS MUTHIKE KIRAGU 3RD RESPONDENT

HEZRON MUIGAI WAIGWA 4TH RESPONDENT

OBSERVATION BY THE COURT

The Counsels herein agreed to file and exchange written submissions in an application dated 23/6/2010. However on perusal of the Court record I have noted that on 23/6/2011 before Justice Muchelule and in the presence of Mr. Magee advocate and Mr. Kariithi advocate the application dated 23/6/2010 was withdrawn. The record states as follows;

“On request of Mr. Kariithi application dated 23/6/2010 is hereby marked withdrawn with no order as to costs”.

The record that follows does not anywhere reinstate the application. And there is no other application filed thereafter. I am therefore unable to write any Ruling on an application that was withdrawn. In other words there is no application before me for purposes of writing a Ruling.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT EMBU THIS 4TH DAY OF APRIL 2014.

H.I. ONG’UDI

J U D G E

In the presence of

M/s Wairimu for Kariithi for Applicant

N/A for or by Respondents

Njue – C/c