



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
Where Legal Information is Public Knowledge

**Nairobi City Council (Now being Nairobi City County Government)  
v Commissioner of Lands & 2 others (Environment & Land Case  
5 of 2021) [2022] KEELC 2454 (KLR) (14 July 2022) (Ruling)**

Neutral citation: [2022] KEELC 2454 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE 5 OF 2021**

**LC KOMINGOI, J**

**JULY 14, 2022**

**BETWEEN**

**NAIROBI CITY COUNCIL (NOW BEING NAIROBI CITY COUNTY  
GOVERNMENT) ..... APPLICANT**

**AND**

**COMMISSIONER OF LANDS ..... 1<sup>ST</sup> RESPONDENT**

**GAMEX SHELTER HUNTERS LIMITED ..... 2<sup>ND</sup> RESPONDENT**

**MUTHITHI INVESTMENTS LIMITED ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

1. This is the Notice of Motion dated 23<sup>rd</sup> March 2022 brought under sections 1A, 1B and 3A of the [Civil Procedure Act](#), Cap 21 Laws of Kenya, and Order 51 rule 1 of the [Civil Procedure Rules](#) 2010 and all other enabling provisions of the law.
2. It seeks orders:-
  1. Spent.
  2. Spent.
  3. That the Notice of Withdrawal of Proceedings dated 14<sup>th</sup> February 2022, lodged in these proceedings by M/S Wambugu & Muriuki Advocates and the order adopted and made there on dated 15<sup>th</sup> February 2021 purportedly on behalf of the Plaintiff herein be set aside, vacated, and held to be null and void together with all consequential orders thereon secured by M/S Wambugu & Muriuki Advocates.



4. This honourable court be pleased to proceed with the fair trial and determination of the Plaintiff pending notice of motion dated 25<sup>th</sup> June 2020 as originally scheduled.
5. Such expedient directions do issue on the further prosecution of the matter herein.
6. Costs abide the outcome of the suit herein.
3. The grounds are on the face of the application and are set out in paragraphs 1 to 19 of the Notice of Motion.
4. The application is supported by the affidavit of Lydia Kwamboka, the Plaintiff's County Attorney, sworn on the March 23, 2022.
5. The notice of motion is not opposed. When the matter came up on the June 9, 2022 to confirm filing of submission's, Ms Fatma for the 1<sup>st</sup> Defendant/Respondent informed the court that they did not wish to oppose the notice of motion. Mr. Obuya for the 3<sup>rd</sup> Defendant/Respondent also informed the court that the 3<sup>rd</sup> Defendant/ Respondent did not wish to participate in the notice of motion.
6. I have gone through the supporting affidavit of Lydia Kwamboka, County Attorney for the Plaintiff, in particular paragraphs 6, 13, 15, and 16.
7. The said averments have not been controverted as the application is not opposed.
8. I find merit in the notice of motion dated March 23, 2022 and I grant orders in terms of prayers 3 and 4 of the Notice of Motion.

It is so ordered.

DATED, SIGNED AND DELIVERED NAIROBI THIS 14<sup>TH</sup> DAY OF JULY 2022.

.....

L. KOMINGOI

JUDGE

In the presence of:-

Mr. H. Kinyanjui for the Plaintiff

Ms Fatma for the 1<sup>st</sup> Defendant

No appearance for the 2<sup>nd</sup> Defendant

Mr. Obuya for the 3<sup>rd</sup> Defendant

Steve - Court Assistant

