



Ayange v Matunda (Land Case E001 of 2024) [2025] KEELC 3610 (KLR) (6 May 2025) (Ruling)

Neutral citation: [2025] KEELC 3610 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET
LAND CASE E001 OF 2024
GMA ONGONDO, J
MAY 6, 2025
IN THE MATTER OF LIMITATION OF ACTIONS ACT CAP 22
AND
IN THE MATTER OF A CLAIM FOR ADVERSE POSSESSION
PURSUANT TO SECTION 38 OF LIMITATION OF ACTIONS ACT
CHAPTER 22 LAWS OF KENYA

BETWEEN

ROBERT MUNGA AYANGE PLAINTIFF

AND

ABIGAEAL BULIMO MATUNDA DEFENDANT

RULING

1. The plaintiff/applicant through learned counsel Korir has sought leave to withdraw this suit.
2. Mr Choge learned counsel for the defendant has no opposition to the application for withdrawal of the suit. However, she has urged the court to order half costs of the suit to the defendant.
3. The plaintiff initiated this suit by way of an originating summons dated 23rd January 2024 for orders, inter alia, a declaration that the Defendant's right to recover the whole of land parcel number Nandi/ Chepkumia BLK 1/64 (Kapkatoi) is barred under the *Limitation of Actions Act* Cap 22 of Laws of Kenya and title over a portion in occupation/use of the Plaintiff thereto extinguished on the grounds that the Plaintiff herein has openly, peacefully and continuously been in occupation/use and possession of the aforesaid land parcel for a period exceeding 23 years.
4. The defendant opposed the suit by way of a replying affidavit of nineteen paragraphs sworn on 5th March 2024 and termed it res judicata. She implored the court to dismiss the suit with costs.
5. The suit set down for hearing today, has not been heard.



6. The withdrawal sought by the plaintiff is not opposed herein.
7. The plaintiff has the right to withdraw the suit and the court has the discretion to allow it as held in *Beijing Industrial Designing & Researching Institute v Lagoon Development Ltd* [2015] eKLR.
8. Notably, the withdrawal of suit is itself its end; see *Priscilla Nyambura Njue v Geovhem Middle East Ltd, Kenya Bureau of Standards (Interested party)* [2021] eKLR.
9. In the premises, I find the application for withdrawal of the instant suit merited.
10. A fortiori, this suit is hereby marked as withdrawn with half costs to the defendant being guided by the proviso to section 27 (1) of the *Civil Procedure Act* Chapter 21 Laws of Kenya.
11. It is so ordered.

DATED AND DELIVERED AT KAPSABET THIS 6TH DAY OF MAY 2025.

G M A ONGONDO

JUDGE

PRESENT;

Mr Korir Learned counsel for the plaintiff

Mr Choge learned counsel for the defendant

Mr Walter Kipkorir, court assistant

