



**Seroney v Land Registrar, Kapsabet Lands Office & another; Silverland Limited (Interested Party)
(Environment & Land Petition E005 of 2024) [2025] KEELC 4225 (KLR) (3 June 2025) (Ruling)**

Neutral citation: [2025] KEELC 4225 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET
ENVIRONMENT & LAND PETITION E005 OF 2024**

GMA ONGONDO, J

JUNE 3, 2025

IN THE MATTER OF LR NO NANDI CHEKUMIA/502

AND

IN THE MATTER OF AN ILLEGAL REVOCATION OF TITLE

AND

**IN THE MATTER OF VIOLATION AND THREATENED VIOLATION
OF FUNDAMENTAL RIGHTS AND FREEDOMS UNDER (INTER ALIA
ARTICLES 10,27,28,29,40 ,47,64 OF THE CONSTITUTION OF KENYA ,2010.**

AND

IN THE MATTER OF BREACH OF NATURAL JUSTICE

BETWEEN

ZIPPORAH JEBICHII SERONEY PETITIONER

AND

THE LAND REGISTRAR, KAPSABET LANDS OFFICE 1ST RESPONDENT

THE INSPECTOR GENERAL OF POLICE 2ND RESPONDENT

AND

SILVERLAND LIMITED INTERESTED PARTY

RULING

1. The instant ruling is in respect of the Notice of withdrawal dated 25th April 2025 pursuant to Order 25 Rule 1 of the Civil Procedure Rules 2010 by the petitioner, Zipporah Jebichii Seroney through Chege and Sang Advocates.



2. The notice of withdrawal relates to the present petition dated 29th November 2024 where the petitioner is seeking six orders, inter alia;
 - a. A declaration do issue that there was a valid transfer of land from the Petitioner to the Interested party in regards to Land Reference number Nandi/Chekumia/502 (The land in dispute herein).
 - b. An order of certiorari do issue quashing the decision of the 1st Respondent to cancel the interested party's ownership status of the land in dispute.
3. By a replying affidavit of Twenty-Seven paragraphs sworn on 17th February 2025, Geoffrey Kiprotich Koros a director of the interested party through H & K Law Advocates, averred in part that the petition be allowed with costs to the petitioner and the interested party.
4. Mr Dennis Sang learned counsel for the petitioned had urged the court to allow the notice of withdrawal since the petitioner has no intention to proceed with the petition.
5. Mr Losiamoi Kiptoo instructed by Mr Kipkorir learned counsel for the interested party opposed the notice withdrawal on the basis that there is no application for the withdrawal of the petition and that no reasons have been advanced thereof. That the title of the land in dispute is likely to be cancelled without affording the interested party the right to be heard thus, the petition be heard to conclusion. That the interested party is entitled to costs since a replying affidavit sworn on 17th February 2025 was filed in response to the petition.
6. In a rejoinder, Mr Sang stated that the notice of withdrawal was filed upon instructions from the petitioner for the benefit of the interested party as regards registration of the land in dispute. That the court be guided by the overriding objective and not to rely on technicalities of procedure as a party may file a fresh suit. That the petition has not been heard and implored the court to allow it's withdrawal with no orders as to costs.
7. The 1st and 2nd interested parties were duly served as revealed in the affidavit of service sworn on 30th May 2025 by learned counsel, Mr Hilary Kiplangat Kirui of H & K Law Advocates.
8. It is noteworthy that the petitioner has the right to discontinue this petition at any stage of the proceedings prior to verdict or judgment as recognized through Order 25 (supra).
9. In re Council of Governors; Senate and another (Interested parties) (SC Reference number 1 of 2014) (2014) eKLR, the Supreme Court of the Republic of Kenya held;

“.....The right to withdraw or discontinue proceedings.....ought to be allowed as a matter of right.....indeed a party's right to withdraw a matter cannot be taken away.....Barring parties from withdrawing matters once filed in courts of law will be contrary to the Constitutional principle of alternative dispute resolution as provided in Article 159 of [the Constitution...](#)”
10. This court is guided by the powers under sections 1A, 1B, 3 and 3A of the [Civil Procedure Act](#) Chapter 21 Laws of Kenya and sections 3 and 19 of the Environment and Land Court 2015 [2011] as well as the contents of the record of proceedings regarding the notice of withdrawal herein; see M & E Consulting Engineers v Lake Basin Development Authority [2015] eKLR.
11. The withdrawal of a matter takes effect immediately the court permits it as the decision in the case of Priscilla Nyambura Njue v Geovhem Middle East Limited and another; Kenya Bureau Standards (Interested party) [2021] eKLR is quite instructive.



12. In the foregone, the notice of withdrawal dated 25th April 2025 is sound or valid.
13. Accordingly, this petition in entirety is hereby marked as withdrawn with no orders as to costs; see Rai & 3 others v Rai & 4 others [2014] eKLR.
14. It is so ordered.

DATED AND DELIVERED VIRTUALLY THIS 3RD DAY OF JUNE 2025

G M A ONGONDO

JUDGE

Present;

Mr D. Sang learned counsel for the petitioner

Mr Losiamoi K. instructed by Mr Kipkorir learned counsel for the interested party

Walter, court assistant

