



Chickoo Investments Limited v ICD Mars Yard Services Limited (Environment & Land Case E258 of 2021) [2024] KEELC 616 (KLR) (12 February 2024) (Ruling)

Neutral citation: [2024] KEELC 616 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE E258 OF 2021
LN MBUGUA, J
FEBRUARY 12, 2024**

BETWEEN

CHICKOO INVESTMENTS LIMITED PLAINTIFF

AND

ICD MARS YARD SERVICES LIMITED DEFENDANT

RULING

1. An application has been made by plaintiffs counsel for the withdraw of the suit with no orders as to costs. No reasons have been advanced for this move save that the counsel for applicant had apparently engaged with defence counsel on the issue.
2. The defence counsel objects to the withdrawal of the suit on the basis that the issue of ownership has not been settled.
3. I have perused the record and I find that the defence of defendants doesn't contain the counterclaim.
4. In the case of *Shadrack Siila Muthama v Kabaso Wycliff Moengwe* [2021] eKLR, it was stated that a party's right to withdraw a suit before court cannot be taken away: see the provisions of order 25 rules (1) and 2 of the *civil procedure Rules*.
5. What the court can do is to determine the issue of costs. But again, a court has discretion to award costs. In the case at hand, I have considered that the matter though filed in 2021 had not progressed to hearing and that it had been referred for mediation. It is not certain as to what happened in the mediation arena. In that regard, I hereby allow the withdrawal of suit with no orders as to costs.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 12TH DAY OF FEBRUARY, 2024 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE



In the presence of:-

Owino for Plaintiff

Chemutai holding brief for Kiarie for Defendant

Court assistant: Eddel

