



**Monirei & another v Redrock Investments Limited (Environment and Land
Case Civil Suit 43 of 2019) [2023] KEELC 17120 (KLR) (3 May 2023) (Ruling)**

Neutral citation: [2023] KEELC 17120 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT AND LAND CASE CIVIL SUIT 43 OF 2019
MN GICHERU, J
MAY 3, 2023**

BETWEEN

VERONICAH NASHIPAE MONIREI 1ST PLAINTIFF

JOYCE KARATO MONIREI 2ND PLAINTIFF

AND

REDROCK INVESTMENTS LIMITED DEFENDANT

RULING

1. This ruling is on the Notice of Preliminary Objection dated 4th April, 2023. In brief the preliminary objection is to the effect this suit does not exist having been withdrawn by the Plaintiffs and costs awarded to the Defendant on 10/3/2022.
2. Counsel for the parties have filed written submissions dated 28th October 2022 and 11th November, 2022 respectively. The issue at the heart of the dispute is simply whether the two suits having been consolidated can now be separated.
3. I have carefully considered the submissions by the learned counsel for the parties as well as the law cited therein and I find that the two suits cannot be separated at this stage.

Section 120 of the [Evidence Act](#) provides as follows-

When one person has, by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative to deny the truth of that thing”.

The prayers sought vide paragraph 12 of the plaint dated 4/4/2013 are similar to the ones sought at paragraph 11 of the cross action dated 28/3/2022. This is abuse of court process as it goes against the general estoppel rule. The Plaintiffs cannot lawfully bring back the suit to life after they withdrew it.



For the above stated reasons, I uphold the preliminary objection dated 4/4/2022 and find that this suit does not exist and the pleadings filed by the Plaintiffs after the dismissal of the case have no effect. Costs to the Defendant.

It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 3RD DAY OF MAY, 2023.

M.N. GICHERU

JUDGE

