



**Republic v Chairman and Members of Kapsabet Division Land Disputes Tribunal & 2 others  
(Miscellaneous Civil Application 47 of 2002) [2025] KEHC 9657 (KLR) (4 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 9657 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
MISCELLANEOUS CIVIL APPLICATION 47 OF 2002  
RN NYAKUNDI, J  
JULY 4, 2025**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

**CHAIRMAN AND MEMBERS OF KAPSABET DIVISION LAND DISPUTES  
TRIBUNAL ..... 1<sup>ST</sup> RESPONDENT**

**VERONICAH KABUTIE ..... 2<sup>ND</sup> RESPONDENT**

**EMILY JEPTOO ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

1. Before this court is an application dated 5<sup>th</sup> day of September 2002 seeking the following orders:
  - a. An order of certiorari to remove into this court and quash the proceedings of the Kapsabet Division Land Disputes Tribunal of 30<sup>th</sup> October 2001 in the tribunal’s dispute no. 78 of 2001 concerning and about all that piece of land known as L.R Nandi/Keben/72
  - b. An order of certiorari to remove into this court and quash the judgment of the Kapsabet Principal Magistrate’s court of 11<sup>th</sup> December 2001 and its subsequent decree issued on in Principal Magistrate’s court giving effect to the decision of the Kapsabet land disputes tribunal in the tribunal’s dispute no. 78 of 2001
  - c. An order of prohibition to prohibit the Kapsabet Principal Magistrate’s court from signing for and on behalf of the respondents any documents effecting the decision
2. The application is anchored on grounds that:



- a. The Kapsabet Division Land Disputes Tribunal acting in excess of its jurisdiction under section 3 of the Land Disputes Tribunal Act no. 18 of 1990 on 30<sup>th</sup> October 2001 determined an issue of the title relating to all that piece of land known as Nandi/Kiminda/318.
  - b. The Principal Magistrate's court at Kapsabet has entered the award made by the Tribunal acting in excess of its jurisdiction as a judgment of that court and a decree in its terms issued
3. The application is further supported by an affidavit sworn by the applicant who deposed as follows:
- a. That I am the interested party herein and competent to make this affidavit.
  - b. That the honorable court on the 5<sup>th</sup> day of February 2002 granted me leave to apply for judicial review and issued an order to that effect marked "DK 1". a-b.
  - c. That I am making this affidavit in support of this substantive application for the said orders of Judicial Review.
  - d. That I annex hereto the chamber summons, affidavit and the statutory statement in support of this application and they are hereto marked "DK 2, (a)-(c), DK 3 (a)-(h) & DK 4(a) respectively.
  - e. That what is deposed to herein is true to the best of my knowledge, information and belief

### **Decision**

4. The applicant in this matter vide notes of withdrawal filed by Ngigi Mbugua & Co. advocate as intimated to this court that he no longer intends to prosecute the suit as against the respondents. The applicable provisions of the law are to be found under order 25 of the civil procedure rules which provides that:
- "1. At any time before the setting down of the suit for hearing the plaintiff may be notice in writing, which shall be served on all parties, wholly discontinue his suit against all or any of the defendants or may withdraw any part of his claim, and ....."
5. From the record I find no reason to withhold the notice for withdrawal of suit as against the respondent with no orders as to costs

**DATED AND SIGNED AT ELDORET THIS 4<sup>TH</sup> DAY OF JULY, 2025**

.....

**R. NYAKUNDI**

**JUDGE**

