



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

ELC CASE NO. 614 OF 2012

DAVID NGATI

YUDA JOSEPH

BONIFACE MATHEKA

JAMES M. NDETO

GEOFFREY OCHANDA & OTHERS.....PLAINTIFFS

VERSUS

EMBAKASI VILLAGE CRAFT CURIOS & JUA KALI ASSOCIATION

NAIROBI CURIOS JUA KALI ASSOCIATION

JOHN MUTIE

JOSEPH OBONYO

JULIUS MUANGE

ANDREW MBITHI

BONIFACE OMBUI

JEMIMAH KIOKO

JOYCE MUSILA

KYALE SAMBA

JUNES MUNANANIE

DANIEL MUSEMBI.....DEFENDANTS

RULING

The Plaintiffs filed a Notice of Withdrawal of Suit on 6/5/2019 indicating that they were withdrawing this suit to enable them prosecute **ELC Case No. 63 of 2018 – David Ngati and 4 others v Elphaz Mutie and 7 Others**. Following that withdrawal, the Defendants filed the application dated 7/6/2019 seeking costs of the withdrawn suit and stay of proceedings in **ELC Case No. 63 of 2018** until the costs are paid. The application was supported by the affidavit of Owino Opiyo advocate who deponed to the number of times the matter came up for hearing.

The court notes that through the ruling delivered by Mutungi J. on 20/9/2013 the court awarded the Defendants the costs of the application dated 17/9/2012. In the ruling delivered on 28/2/2014, the court directed each party to bear its costs for the application dated 4/10/2013. Gacheru J. in her ruling of 7/9/2017 awarded the costs to the alleged contemnor, Joseph Onyango.

In light of the reason for the withdrawal of the suit, the court agrees with the Defendants that they are entitled to the costs of the suit following the withdrawal of the suit except for the applications in which the court already awarded costs.

Proceedings in **ELC Case No. 63 of 2018** will be stayed until the costs in this suit are paid.

Dated and delivered at Nairobi this 25th day of February 2020

K.BOR

JUDGE

In the presence of:-

Ms. P. Wambua holding brief for Mr. Owino Opiyo for the Defendants

Mr. V. Owuor- Court Assistant

No appearance for the Plaintiffs