



Chabari (Suing as the Legal Representative of the Estate of Wallace Chabari Murianki – Deceased) v Kiriimi & 3 others (Environment and Land Case E013 of 2024) [2025] KEELC 6312 (KLR) (23 September 2025) (Ruling)

Neutral citation: [2025] KEELC 6312 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT CHUKA
ENVIRONMENT AND LAND CASE E013 OF 2024
BM EBOSO, J
SEPTEMBER 23, 2025**

BETWEEN

WILFRED NYAGA CHABARI (SUING AS THE LEGAL REPRESENTATIVE OF THE ESTATE OF WALLACE CHABARI MURIANKI – DECEASED) PLAINTIFF

AND

**JANE IGOJI KIRIMI 1ST RESPONDENT
KINORO TEA FACTORY COMPANY LIMITED 2ND RESPONDENT
LAND REGISTRAR THARAKA NITHI COUNTY 3RD RESPONDENT
THE HON. ATTORNEY GENERAL 4TH RESPONDENT**

RULING

1. Vide a notice of withdrawal of suit, dated 14/8/2025, the plaintiff gave his notice of intention to withdraw this suit. The plaintiff has today, through counsel, made an oral application praying for an order withdrawing the suit with no order as to costs.
2. All the defendants do not object to the withdrawal of the suit. All of them, however, insist on being awarded costs of the suit. They contend that, having been sued, they engaged counsel and they have incurred costs in defending/resisting the plaintiff's claim. They further contend that they have attended court severally.
3. The court has considered the arguments advanced. The jurisdiction to award or not to award costs is guided by the general principle in Section 27 of the *Civil Procedure Act* – that costs follow the event. In this suit, the decision to withdraw the suit came after the defendants had enlisted the services of counsel



and filed defences contesting the plaintiff's claim. In the above circumstances, it would be unjust to deny the sued defendants costs of the suit.

4. For the above reasons, the plea to withdraw this suit is allowed and the plaintiff is to bear costs of the withdrawn primary suit.

5. It is so ordered.

DATED, SIGNED AND DELIVERED AT CHUKA THIS 23RD DAY OF SEPTEMBER, 2025.

B M EBOSO [MR]

ELC JUDGE

In the Presence of:

Ms. Otieno for the Plaintiff.

Mr. Kijaru for the 1st Defendant

Ms. Mwema for the 2nd Defendant

Ms. Kendi for the 3rd and 4th Defendants

Court Assistant – Mr. Mwangi

