



Yego & 3 others v County Government of Nandi (Environment and Land Case E011 of 2025) [2025] KEELC 6656 (KLR) (1 October 2025) (Ruling)

Neutral citation: [2025] KEELC 6656 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET
ENVIRONMENT AND LAND CASE E011 OF 2025
GMA ONGONDO, J
OCTOBER 1, 2025**

BETWEEN

**RICHARD KIPROTICH YEGO 1ST PLAINTIFF
WILSON KIPKORIR KOSGEI 2ND PLAINTIFF
TITUS KIPYAP 3RD PLAINTIFF
JOSEPH KIMELI KETER (SUING AS THE LEGAL REPRESENTATIVE OF THE
ESTATE OF BENJAMIN TAI – DECEASED) 4TH PLAINTIFF
AND
COUNTY GOVERNMENT OF NANDI DEFENDANT**

RULING

1. By the Notice of Motion dated 20th June 2025, the plaintiffs/applicants through Mutta Advocates, are seeking the following orders;
 - a. This Honourable Court be pleased to issue interim orders of temporary injunction to restrain the Defendant, its agents, servants, employees and assigns whatsoever from putting up or continuing with its activities, being construction of building, structures, walls or fence on the suit properties known as LR. No. 7830//232, LR. No. 7830/231 and LR. NO. 7830/233 respectively (The suit parcels of land), pending the parties taking directions on 24th July, 2024 in respect of application dated 6th May, 2025.
 - b) Costs of this application be provided for.
2. The application coming for inter-partes hearing today, Mr D Tallam learned counsel for the applicants has moved the court to have it withdrawn with no orders as to costs. That the orders sought in the said application are similar to the ones sought in the application dated 26th May 2025.



3. Mr. A. Kogo learned counsel for the Respondent has no objection to the withdrawal of the application and also implored the Court to have the application dated 26th May 2025 withdrawn with costs to the Respondent. That the Respondent's replying affidavit sworn on 20th August 2025, is in response to both applications.
4. In rejoinder, learned counsel Mr Tallam took the position that the respondent's replying affidavit is in response to another Notice of motion dated 21st May 2025 that was not filed by the Applicants.
4. In that regard, is the withdrawal of the application dated 20th June 2025 meritorious?
5. It is trite law that the choice by a party to withdraw a matter before court, as a general rule, cannot be taken away from that party; see *Council of Governors v Senate & another*, SC Reference No. 1 of 2014 (2014) eKLR.
6. Notably, both applications dated 20th June 2025 and 26th May 2025, are similar as they relate to temporary injunctive relief against the Respondent over the suit parcels of land. Thus, the Applicants' counsel has given good reasons for the withdrawal of the application dated 20th June 2025.
7. To that end, it is the considered view of this Court that the Applicants have the right to withdraw the application. Plainly, the withdrawal of it is made in good faith and would not occasion any prejudice to the Respondent.
8. In the result, the application dated 20th June 2025, be and is hereby marked as withdrawn with costs in the cause.
9. It is so ordered.

DATED AND DELIVERED AT KAPSABET THIS 1ST DAY OF OCTOBER 2025.

HON. G M A ONGONDO

JUDGE

In the presence of;

1. Mr. D. Tallam learned counsel for the Plaintiffs/Applicants
2. Mr. A. Kogo learned counsel for the Defendant/Respondent
3. Walter, Court Assistant

