



REPUBLIC OF KENYA



KENYA LAW
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**Owiso & 2 others v Attorney-General & another; Law Society
of Kenya & 9 others (Interested Parties) (Petition (Application)
E020 of 2025) [2025] KESC 62 (KLR) (14 November 2025) (Ruling)**

Neutral citation: [2025] KESC 62 (KLR)

REPUBLIC OF KENYA

IN THE SUPREME COURT OF KENYA

PETITION (APPLICATION) E020 OF 2025

**MK KOOME, CJ & P, PM MWILU, DCJ & VP, MK IBRAHIM,
SC WANJALA, N NDUNGU, I LENAOLA & W OUKO, SCJJ**

NOVEMBER 14, 2025

**CORAM: KOOME; CJ & P, MWILU; DCJ & VP, IBRAHIM, WANJALA,
NJOKI, LENAOLA & OUKO SCJJ)**

PETITION (APPLICATION) NO. E020 OF 2025

BETWEEN

DR OWISO OWISO 1ST PETITIONER
KHELEF KHALIFA 2ND PETITIONER
ASHIOYA BIKO 3RD PETITIONER

AND

HON ATTORNEY-GENERAL 1ST RESPONDENT
INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION 2ND
RESPONDENT

AND

LAW SOCIETY OF KENYA INTERESTED PARTY
KATIBA INSTITUTE INTERESTED PARTY
KALONZO MUSYOKA INTERESTED PARTY
RAILA ODINGA INTERESTED PARTY
UNITED DEMOCRATIC ALLIANCE PARTY INTERESTED PARTY
DAVID MARAGA INTERESTED PARTY
OKOITI OKIYA OMTATAH INTERESTED PARTY



JIMI RICHARD WANJIGI INTERESTED PARTY
FRED MATIANGI INTERESTED PARTY
KENYA HUMAN RIGHTS COMMISSION INTERESTED PARTY

(Being an Application to Withdraw Petition of Appeal pursuant to Sections 3A and 21 (2) of the Supreme Court Act, rule 27 (1) Supreme Court Rules and all other enabling provisions of the law)

RULING

1. Upon Perusing the Notice of Motion dated 21st August 2025 and filed on the same day, seeking orders to withdraw the petition of appeal dated 23rd April 2025 and filed on 24th April 2025; and
2. Upon Reading the grounds in support of the application, and the supporting affidavits sworn on 21st August 2025 by Owiso Owiso, Khelef Khalifa and Ashioya Biko, wherein they aver that upon perusal of the Ruling of the Court dated 15th August 2025 in which the Court provided clarity on several issues, they consequently formed the opinion that it is no longer prudent or judicious to proceed with the appeal; and
3. Noting that the application was mentioned before the Deputy Registrar on 22nd August 2025, wherein the 1st and 2nd respondents, and the 4th, 7th and 8th interested parties stated that they did not oppose the application for withdrawal of the petition of appeal, and it being a public interest matter did not warrant any costs to be awarded; and
4. Considering all that we have stated above, We Now Opine And Determine As Follows:
 - i. The applicants right to withdraw a matter is anchored under Rule 27 (1) of the Supreme Court Rules, 2020. The rule provides that the applicant may, with the leave of Court, withdraw the proceedings at any time before delivery of judgment. This position was settled in the case of Lelli Vs Kenya Medical Training College & 2 Others [2021] KESC 21 (KLR) where the Court stated as follows:

“It therefore suffices to say that indeed a party’s liberty to withdraw a matter cannot be taken away and this court has to allow a party who has approached the court to withdraw such a matter, if he deems so fit to do.....”
 - ii. In the instant case, the application to withdraw the petition of appeal was filed before the appeal was set down for hearing. In effect, the application to withdraw the appeal was filed on time and therefore stands allowed.
 - iii. On costs, the 1st and 2nd respondents as well as the 4th, 7th and 8th Interested Parties, did not apply for costs citing that the appeal was a public interest matter. We are persuaded by their assertion and shall not make any orders as to costs.
5. Consequently, and for the reasons aforesaid, we make the following orders:
 - i. The Notice of Motion dated 21st August 2025 is allowed;
 - ii. The Petition of Appeal dated 23rd April 2025 and filed on 24th April 2025 is hereby marked as withdrawn;
 - iii. Each party shall bear its costs of the Application; and



- iv. The sum of Kshs. 6,000 - deposited as security for costs upon lodging of this petition, be refunded to the depositor.

It is so ordered.

DATED AND DELIVERED AT NAIROBI THIS 14TH DAY OF NOVEMBER, 2025

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M.K KOOME

CHIEF JUSTICE & PRESIDENT OF THE SUPREME COURT

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P.M MWILU M.K IBRAHIM

DEPUTY CHIEF JUSTICE & VICE-PRESIDENT JUSTICE OF THE SUPREME OF THE SUPREME COURT COURT

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S. C WANJALA NJOKI NDUNGU JUSTICE OF THE SUPREME COURT JUSTICE OF THE SUPREME COURT

.....

I. LENAOLA W. OUKO

JUSTICE OF THE SUPREME COURT JUSTICE OF THE SUPREME COURT

I certify that this is a true copy of the original. REGISTRAR,

Supreme Court Of Kenya

