



Nyando Farmers Company Limited v Kabutie Farmers Limited & 4 others (Environment and Land Petition E001 of 2025) [2025] KEELC 8372 (KLR) (25 November 2025) (Ruling)

Neutral citation: [2025] KEELC 8372 (KLR)

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KAPSABET

ENVIRONMENT AND LAND PETITION E001 OF 2025

GMA ONGONDO, J

NOVEMBER 25, 2025

IN THE MATTER OF ARTICLES 2,3,10,19,20,21,22,23,27,40,47,50, 64,67, 68,159, 162 (2) (B), AND 165 (3) (B) OF THE CONSTITUTION OF KENYA, 2010

AND

IN THE MATTER OF SECTIONS 3.4.5.6.7.8.9.12.13. AND 14 OF THE ENVIRONMENT AND LAND COURT ACT NO. 19 OF 2011

AND

IN THE MATTER OF THE GOVERNMENT LANDS ACT (REPEALED)

BETWEEN

NYANDO FARMERS COMPANY LIMITED PETITIONER

AND

KABUTIE FARMERS LIMITED 1ST RESPONDENT

THE NATIONAL LAND COMMISSION 2ND RESPONDENT

THE CHIEF LAND REGISTRAR 3RD RESPONDENT

THE COUNTY GOVERNMENT OF NANDI 4TH RESPONDENT

THE ATTORNEY GENERAL 5TH RESPONDENT

RULING

1. The Petitioner/Applicant through Felix Oketch and Company Advocates brought an application by way a Notice of Motion dated 11th November 2025 for principally, conservatory orders against the Respondents in respect of Land parcel LR NO. 1462/1 Songhor in Nandi County pending the outcome of the petition of even date.



2. Mr. Oketch learned Counsel for the Applicants has sought to withdraw the application which has not been responded to. That the said move will pave way for directions as regards the hearing of the petition to expedite justice.
3. Mr. A. Kogo learned Counsel for the 4th Respondent has no objection to the withdrawal since only a memorandum of appearance to be filed and served by close of this day. That the 4th Respondent is yet to provide instructions for filing of a response to the application.
4. Ms Odeyo learned Counsel for the 3rd and 5th Respondents has no opposition to the application which has not been served upon her clients.
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 vs Senate & another, SC Reference No. 1 of 2014 (2014) eKLR and Asanyo & 3 others-vs-Attorney General (2020) KESC 62 (KLR).
6. In the foregone, the withdrawal of the application cannot be taken away as it is well deserved in the circumstances.
7. Moreover, the withdrawal of the application will pave way for the hearing of the petition in the spirit of Article 159 (2) (b) of *the Constitution* of Kenya 2010 which reads;
Justice shall not be delayed.
8. Accordingly, the application dated 11th November 2025 is hereby marked as withdrawn with no orders as to costs.
9. It is so ordered.

DATED AND DELIVERED AT KAPSABET THIS 25TH DAY OF NOVEMBER 2025.

HON. G. M. A ONGONDO

JUDGE

In the presence of;-

Mr Oketch Learned Counsel for the Applicant/Petitioner

Mr A. Kogo learned Counsel for the 4th Respondent

Ms Odeyo Learned counsel for the 3rd and 5th Respondents

Walter, Court Assistant

