

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT OF KENYA**  
**AT KAPSABET**  
**ELCLC CASE NO. E007 OF 2025**

**CATHERINE CHEPKEMEI.....**  
**PLAINTIFF**

**-VERSUS-**

**COUNTY GOVERNMENT OF NANDI.....1<sup>ST</sup>**  
**DEFENDANT**

**KAPSABET MUNICIPALITY.....2<sup>ND</sup>**  
**DEFENDANT**

**RULING**

- 1) In the application by way of a Notice of Motion dated 3<sup>rd</sup> April 2025, the Plaintiff/Applicant through Mutta and Company Advocates is seeking interim injunctive relief against the Defendants/Respondents in respect of the suit land reference number BK1/39/KAPSABET MUNICIPALITY pending the hearing and determination of this suit.
- 2) In their replying affidavit sworn on 7<sup>th</sup> October 2025 by Alfayo Lel, the Municipal Manager, Kapsabet Municipality,

the Respondents through the office of the County Attorney, Nandi County, opposed the application and prayed that it be dismissed with costs.

3) Mr D. Tallam learned Counsel for the Applicant has applied for the withdrawal of the application with no orders as to costs on the basis that the same has been overtaken by events for the hearing of the suit and or possible negotiations between the parties for possible settlement of the matter.

4) Ms Chebet learned Counsel for the Respondents has no opposition to the withdrawal of the application as they had been notified of the same.

5) It is trite law that the choice by a party to withdraw a suit 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.**

6. Further, no prejudice would be caused to the Respondents by the withdrawn of the application in the circumstances; see **Lelli-vs- Kenya Medical Training College & 2 others Petition 10 of 2021 {2021} KESC 21 KLR(Civ)**

7. The Applicant who has the right to withdraw the application, has given sufficient explanation to have it withdrawn. The Court has the discretion to allow the withdrawal.

8. Accordingly, the application generated by way of a Notice of Motion

dated 3<sup>rd</sup> April 2025 is hereby marked as withdrawn with no orders as to

costs.

9. It is so ordered.

**DATED** and **DELIVERED** at **KAPSABET** this **20<sup>th</sup>** day of **JANUARY 2026**.

**HON G M A ONGONDO**

**JUDGE**

**In the presence of;-**

1. Mr D Tallam Learned Counsel for the Applicant
2. Ms Chebet Learned Counsel for the Respondents
3. Walter, Court Assistant