

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT MAKUENI**  
**ELC PETITION NO. 15 OF 2019**  
**BETWEEN**

**RUFUS MULATYA MUATHE & OTHERS.....**  
**PETITIONERS**

**-VERSUS-**

**KENYA PIPELINE COMPANY LIMITED..... 1<sup>ST</sup>**  
**RESPONDENT**

**NATIONAL ENVIRONMENTAL MANAGEMENT AUTHORITY**  
**(NEMA)..... 2<sup>ND</sup> RESPONDENT**

**THE CABINET SECRETARY, MINISTRY OF**  
**ENVIRONMENT..... 3<sup>RD</sup> RESPONDENT**

**THE CABINET SECRETARY, MINISTRY OF**  
**HEALTH..... 4<sup>TH</sup> RESPONDENT**

**THE CABINET SECRETARY, MINISTRY OF ENERGY AND**  
**PETROLEUM..... 5<sup>TH</sup> RESPONDENT**

**THE HON. ATTORNEY GENERAL..... 6<sup>TH</sup> RESPONDENT**

**RULING**

1. This is a ruling in respect of an application dated 21<sup>st</sup> March, 2025 in which the Applicant Rufus Mulatya Muathe and 44 others wish to be allowed to withdraw from the petition herein. The Application is brought under the provisions of Rule 27 (1)(a) of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) practice and procedure Rules, 2013 (Mutunga Rules).
2. The Applicants contend that their relationship with their lawyer M/s Maanzo & Co. Advocates has irretrievably broken down and it is not possible to continue litigating in the same petition. The Applicants state that they have already filed a notice of intention to act in person to enable them to instruct a new advocate to file a fresh petition on their behalf.
3. The Applicants state that they had made a complaint against the firm of Maanzo & Co. Advocates which complaint was later withdrawn to allow amicable settlement. On 16<sup>th</sup> July, 2024 the Applicants wrote a complaint

letter to the firm of Maanzo & Co. Advocates. On 10<sup>th</sup> December, 2024, the Applicants wrote a letter to the same firm withdrawing instructions. On 12<sup>th</sup> February, 2025, the Applicants wrote to Maanzo & Co. Advocates seeking to have their documents back. They therefore contend that they have lost faith in the said firm and want to be allowed to withdraw the petition.

4. The Respondent M/s Maanzo & Co. Advocates did not respond to the Applicant's application. They instead filed an application dated 24<sup>th</sup> October, 2025 in which they sought striking out of the Applicant's notice of withdrawal dated 21<sup>st</sup> March, 2025. This application is subject of a separate ruling and cannot be taken as a response to this application which I will treat as undefended. Similarly, there was no objection to the application by the other parties.
5. The Applicants filed submissions dated 18<sup>th</sup> September, 2025. The Applicants submitted that Rule 27 (1) (a) of the Mutunga Rules gives a petitioner a right to apply to court seeking permission to withdraw the petition. The Applicants submitted that there was no opposition filed against the Applicants' application.
6. The Applicants submitted that they had met the three fold test required to withdraw constitutional petitions. They submitted that they had filed a proper notice and served all parties; no objection has been raised by any of the parties and that no prejudice will occur to the public by the withdrawal.
7. The Applicants submitted that they had met the test set out in the case of **Peter Makau Musyoka & 19 others –vs-Permanent Secretary, Ministry of Energy & 14 others (2014)**.
8. I have carefully considered the grounds for the withdrawal of the Applicants from the petition. I notice that in the original petition which was filed on 2<sup>nd</sup> December, 2019, there were 64 petitioners listed but only 53 are the ones who signed the list which accompanied the petition. This is number of the petitioners who were in the original petition. The petition was amended on

11<sup>th</sup> November, 2021 which increased the petitioners to 397. Out of the 397 petitioners, those seeking to withdraw from the petition are 45.

9. The reason given by the Applicants is that their relationship with Maanzo & Co. Advocates has irretrievably broken down. This is confirmed by the fact that the firm refunded Kshs.200,000/= which the Applicants had paid as deposit for legal fees. The Applicants intimate that they intend to sue the firm for professional negligence, and have filed a separate application seeking to be given them the documents relating to the petition.
10. The Applicants having filed a notice of intention to act in person and subsequently gave instructions to M/s Muriithi S. Kiragu & Co. Advocates who has filed a notice of appointment to act for them and the firm of M/s Maanzo & Co. Advocates having filed an advocate/client bill of costs, this shows that indeed the relationship between the Applicant and the firm of Maanzo & Co. Advocates has irretrievably broken down.
11. This petition was filed as a public interest litigation. A three judge bench delivered a judgment on 11<sup>th</sup> July, 2025 in which all aspects of the public interest in the litigation were addressed. What remains for determination if any is the quantum resulting from the violation of the constitutional rights of the petitioners.
12. Already the Applicants have exercised their constitutional right to take a lawyer of their own choice who is properly on record and who is urging the application for withdrawal from the petition on behalf of the Applicants.
13. I have already stated hereinabove that though the Applicants served the notice upon all the parties, the firm of Maanzo did not respond to the notice. They instead opted to file a separate application seeking to strike it out. That application is subject of a separate ruling and is not an answer to the current application.
14. I have already found that the Applicants had a right to engage the firm of Muriithi S. Kiragu & Co. Advocates. The only issue which remains to be

answered is whether the 45 Applicants should be allowed to withdraw from this petition. The only reason which the Applicants are seeking to get out of the petition is that the petition has taken long to determine due to non-prosecution by the firm of Maanzo & Co. Advocates and that the relationship between the Applicants and Maanzo & Co. Advocates has irretrievably broken down. For this reason, the Applicants state that they want to file their own petition.

15. The main reason why the Applicants wanted to withdraw from the petition is that they had lost favour with the firm of Maanzo & Co. Advocates. This has now been cured by the court finding that Muriithi S. Kiragu is properly on record for the Applicants. It will not be in the interest of expedition to allow the Applicants who withdraw from this petition. There is absolutely no need for the Applicants to withdraw from this petition only to file another one. The facts affecting the Applicants are the same affecting the remaining petitioners who have opted to be represented by the firm of Maanzo & Co. Advocates.

16. Under Rule 17 of the Mutunga Rules, the court has power either on its own motion or on application by any party to consolidate several petitions. It is in the interest of saving judicial time that the Applicants be heard in this petition. I therefore decline to allow the Applicants to withdraw from this petition. I make no order as to costs given the public interest nature of this petition.

It is so ordered.

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**HON. E. O. OBAGA**

**JUDGE**

**RULING DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS THIS 12<sup>TH</sup> DAY OF MARCH, 2026.**

**IN THE PRESENCE OF:** \_\_\_\_\_

Mr. Maanzo, Mr. Hassan and Mr. Mbulu for Petitioners.

Mr. Odongo for 3<sup>rd</sup> to 6<sup>th</sup> Respondents.

Ms. Kauria for Mr. Ngala for 2<sup>nd</sup> Respondent.

Mr. Muriithi for some petitioners.

Mr. Mugun for 1<sup>st</sup> Respondent.

Court assistants – Musyoki and Nyaanga