

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT KAPSABET

ELCL MISC.APPLICATION 032 OF 2025

ALICE KHASINDU LUYAI1ST

APPLICANT

WICKLIFFE LUVANDA ANDUNGA.....2ND

APPLICANT

KENNETH ASIRIKWA JAPAN.....3RD

APPLICANT

CALEB MULINDI MUKHALE.....4TH

APPLICANT

EFATIWA MIREYA MULINDI.....5TH

APPLICANT

KENNETH KALUGUTWA ASHIOLA.....6TH

APPLICANT

JUDITH NALIAKA NYAPOLA.....7TH

APPLICANT

MILDRED KHIYANIRI LIHANDA.....8TH

APPLICANT

PAUL VITABU MAVIA.....9TH

APPLICANT

MASALINA MBOGA FUNDI.....10TH

APPLICANT

HELLEN AMUME KHAZALWA.....11TH

APPLICANT

JULIA CHEPKEMBOI.....12TH

APPLICANT

IRENE NYANGWESO KEYA.....13TH

APPLICANT

-VERSUS-

NATHAN SHIVULU MBELESIA.....

RESPONDENT

RULING

1. The applicants through M/S Cheruiyot Melly and Associates Advocates instituted an application by way of a

Notice of Motion dated 7th October 2025 for the orders, inter alia,

a) That this Honourable Court be pleased to thereafter transfer to itself the lower Court file being **Kapsabet Chief Magistrate's Court Land Case No. E056 Of 2023 Between Alice Khasindu Luyai, Wickliffe Luvanda Andunga, Kenneth Asirikwa Japan, Caleb Mulindi Mukhale, Efatiwa Mireya Mulindi, Kenneth Kalugutwa Ashiola, Judith Naliaka Nyapola, Mildred Khiyaniri Lihanda, Paul Vitabu Mavia, Masalina Mboga Fundi, Hellen Amume Khazalwa, Julia Chepkemboi & Irene Nyangweso Keya -Versus- Nathan Shivulu Mbelesia** for trial and final disposal.

b) That upon grant of prayer (3) above the Applicants be granted leave to amend their pleadings and leave to comply with order 11 of the Civil Procedure Rules 2010 and corresponding leave to the Respondent if he so desires.

2. Mr. Kiprono learned counsel for the applicants sought to have the application withdrawn and that each party to bear own costs. That the matter has been overtaken by events.
3. Mr. Mukabane learned counsel for the respondent/defendant did not oppose the application.
4. It is established law that any withdrawal and discontinuance of a matter ought to be allowed as it the right of a party to do so subject to issue of costs which can be claimed by the respondent, if any; see **Re Council of Governors; Senate (The interested party) (2014) eKLR and Lelli vs Medical Training College & 2 others Petition 10 of 2021 {2021} KESC 21 KLR(Civ).**
5. In the premises, the withdrawal of the application is meritorious. Thus, the application is hereby marked as withdrawn with each party to bear own costs.
6. It is so ordered.

Dated and Delivered at Kapsabet this 24th March 2026.

HON. G.M.A. ONG'ONDO

JUDGE

In the presence of;

1. Mr. Kiprono learned counsel for the applicants/plaintiffs
2. Mr. Mukabane learned counsel for the respondent/defendant
3. Walter, court assistant