



**Kamwara v Mbusi & 2 others (Environment and Land Miscellaneous Case E007 of 2025) [2025] KEELC 5599 (KLR) (21 July 2025) (Ruling)**

Neutral citation: [2025] KEELC 5599 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT CHUKA  
ENVIRONMENT AND LAND MISCELLANEOUS CASE E007 OF 2025**

**BM EBOSO, J**

**JULY 21, 2025**

**BETWEEN**

**FRANCIS MATI KAMWARA ..... APPLICANT**

**AND**

**JAMES ARUSI MBUSI ..... 1<sup>ST</sup> RESPONDENT**

**DISTRICT LAND ADJUDICATION & SETTLEMENT OFFICER THARAKA  
SOUTH/NORTH SUB-COUNTIES ..... 2<sup>ND</sup> RESPONDENT**

**THE HON ATTORNEY GENERAL ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

1. The applicant seeks a withdrawal of this suit (Miscellaneous Application). There is no opposition to the oral plea for an order marking the suit as withdrawn save that the 1st respondent wants to be awarded costs of the application/suit.
2. The applicant contends that there should be no award of costs because a response was not served until today. The 1st respondent's position is that their response was served on Friday 18/7/2025 and an affidavit of service has been uploaded to that effect.
3. The court has considered the contestation on the issue of costs. The general principle in section 27 of the *Civil Procedure Act* is that costs follow the event. In the present proceedings, the applicant filed the suit/application and invited the 1st respondent to engage an advocate and respond to the application. As at the time of making the oral plea to withdraw the application, the 1st respondent had filed and served his response. The 1st respondent engaged M/s Mbumbuya & Co Advocates who filed a notice of appointment on 18/7/2025 and filed a replying affidavit on the same day. Given the above circumstances, it would be unfair to deny the 1st respondent costs of the application/suit.



4. For the above reason, the applicant's oral plea to withdraw this Miscellaneous Application is allowed. It is further ordered that the applicant shall bear the 1st respondent's costs of the suit.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT CHUKA THIS 21<sup>ST</sup> DAY OF JULY, 2025.**

**B M EBOSO [MR]**

**JUDGE**

In the Presence of:-

Mr. Mugira for the Applicant

Ms. Mbumbuya for the 1st Respondent

Ms. Kendi for the 2nd and 3rd Respondents

Court Assistant – Mr. Mwangi

