



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT CHUKA

CHUKA ELC CIVIL APPEAL CASE NO. 04 OF 2019

STANLEY NYAGA M'BEI.....1ST APPELLANT

CALVIN GITONGA M'BEI.....2ND APPELLANT

VERSUS

M'BEI KIRAITHE.....RESPONDENT

RULING

1. This application is dated 7th November, 2019 and seeks orders:

1. That the honourable court do review the orders made on 31.07.2019 and direct that the appeal be heard on merit.
2. That costs of this application be provided for.

2. The application is buttressed by the affidavit of M'Mbei Kiraithe, the applicant and has the following grounds:-

1. That the court delivered judgment on 31.7.2019 on the basis of a consent entered by the parties.
2. That the applicant's understanding of the consent has been vitiated by the Respondents' (sic) conduct.
3. That the applicant has discovered new and important matter which was previously not within his knowledge.
4. That there is sufficient reason to have the consent order reviewed.

3. On 16th December, 2019, Mr. Mark Muriithi, the applicant's advocate intimated to court that he had instructions to withdraw the application. He also told the court that the issue of costs did not arise because the respondent had not been served.

4. In the circumstances, this application is marked withdrawn. The court having delivered its judgment on 31st July, 2019, hereby declares itself functus officio.

5. No costs are awarded.

6. It is so ordered.

Delivered in open Court at Chuka this 16th day of December, 2019 in the presence of:

CA: Ndegwa

Mark Muriithi for the Applicant

P. M. NJOROGE

JUDGE