



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MIGORI**

**ENVIRONMENT AND LAND COURT**

**ELC CASE NO. 713 OF 2017**

**(Formerly Kisii ELC case No. 460 of 2014)**

**1. P O W (Suing on behalf of T A MINOR)**

**2. M O K.....PLAINTIFFS**

**VERSUS**

**O S S.....DEFENDANT**

**RULING**

1. The plaintiffs filed this suit way of a plaint dated 7<sup>th</sup> November 2014 against the defendants for the following orders:-

a) Deregistration of **LR. NO. NORTH SAKWA /KAMRESI/[particulars withheld]** measuring 2.6 ha in the name of O S S and the same be registered wholly in the names of **M O K AND P O W** upon doing succession hence shall hold the title in trust for T A O.

b) Permanent injunction restraining the defendant either by himself, agents, servants or anyone claiming under the defendant from interfering, trespassing, cultivating, interfering or in any manner with the suit land **L.R. NO. NORTH SAKWA/KAMRESI/[particulars withheld]**.

c) Cost of the suit.

d) Any other relief court shall deem fit to grant.

2. By a statement of defence dated 22/1/2015, the defendant denied the plaintiff's claim. He sought dismissal of the suit with costs.

3. The matter is for directions today. Mr. Agure Odera learned counsel for the plaintiff has sought to have the suit withdrawn with costs to the defendant.

4. Mr. Kiseru learned counsel for the defendant has no objection to the withdrawal.

5. I find instructive Order 25 of the Civil Procedure Rules, 2010 on the withdrawal of suits. Moreover, withdrawal of suit is meant to great extent promote Alternative Disputes Resolution under, Article 159 (2) (c) of the Constitution of Kenya, 2010 as observed in **Munya –v- IEBC (2014) e KLR**.

6. I find the application by the plaintiff's counsel merited.

7. Accordingly, I allow the withdrawal of the suit by the plaintiff with costs to the defendant.

**DELIVERED, DATED and SIGNED at MIGORI this 12<sup>th</sup> day of February 2018.**

**G. ONGONDO**

**JUDGE**

**In presence of :-**

Mr. Agure Otero counsel for Plaintiffs

Mr. Kibera counsel for the Defendant

Court Assistant – Tom Maurice