



REPUBLIC OF KENYA

ENVIRONMENT AND LAND COURT AT KISII

APPEAL NO. 160 OF 2013

GILBERT O. ANYONA APPELLANT

VERSUS

STEPHEN M. MARITA RESPONDENT

RULING

(Being an appeal from the Ruling of Hon. Mugendi Nyagah - RM delivered in Kisii CMC Misc. App. No. 95 of 2013 delivered on 24th October, 2013)

1. This is an appeal that arose out of a ruling delivered on 24th October, 2013 by Hon. Mugendi Nyagah (RM) in Kisii CMC Misc. Application No. 95 of 2013 filed under Order 51 Rules 1 and 15 of the **Civil Procedure Rules** and Sections 3 and 3A of the **Civil Procedure Act**. It was in respect of the premises known as Keroka Plot No. 127 in Keroka Town.
2. On 20th March 2013, Mr. Soire counsel for the appellant requested this court for time to contact his client/the appellant. The court fixed mention for 16th May, 2017 for directions.
3. Today the matter is for directions. Mr. Soire for the applicant has applied to withdraw this appeal with no order as to costs. Mr. Nyatundo for the respondent has no objection to the application.
4. I consider the application and the response thereto. **Order 25 Rules 1 and 2 of the Civil Procedure Rules, 2010** provides for the withdrawal by the plaintiff and discontinuation of suit by the parties. No notice in writing is required because both parties are represented in this appeal. There is no objection to the withdrawal of the appeal.
5. This appeal has been pending in this court since year 2013. Under **Article 159 (2) (b)** of the **Constitution of Kenya**, justice shall not be delayed. The application is merited,
6. I accordingly allow the application for the withdrawal of the appeal by the appellant's counsel.
7. On costs, I consider the nature of the application and the proviso to **Section 27** of the **Civil Procedure Act, Cap 21 Laws of Kenya**. I make no order as to costs.

G. M. A. ONGONDO

JUDGE - MIGORI

(SITTING AT KISII ELC SERVICE WEEK)

Ruling delivered, signed and dated in open court at Kisii this 16th day of May, 2017.

G. M. A. ONGONDO

JUDGE - MIGORI

(SITTING AT KISII ELC SERVICE WEEK)

In the presence of:

Mr. Soire for the appellant

Mr. Nyatundo for the respondent

Ruth court assistant