



REPUBLIC OF KENYA

ENVIRONMENT AND LAND COURT AT KISII

CASE NO. 247 OF 2013

YUNES KERUBO ORUTA PLAINTIFF

VERSUS

ROSE NYANCHAMA AENCHA DEFENDANT

RULING

1. The application before me is for withdrawal of this suit which was filed by way of a plaint dated 4th June, 2013. The plaintiff prays for judgment against the defendant for:

- a. An order of the defendant's eviction from parcel of land title No. Central Kitutu/Daraja Mbili/569.**
- b. Alternatively an order directed at the defendant to give up vacant possession of land parcel No. Central Kitutu/Daraja Mbili/569.**
- c. Costs of this suit.**

2. The plaintiff is represented by Kasamani & Co. Advocates. On 13th June, 2013, Nyachae & Ashitiva Advocates entered appearance for the defendant who later filed a memorandum of appearance on 18th June 2013. She/defendant appears in person.

3. A hearing notice dated 3rd April 2017 was issued to both parties. The matter is for hearing. It is now 9.30am. The plaintiff's counsel C. L Kasamani has applied to have the suit withdrawn with no order as to costs. The defendant is absent without reason yet the notice was addressed to her.

4. The grounds of the withdrawal are:

- a. The suit involves mother in law and daughter in law.**
- b. The suit land is family property.**
- c. The dispute has been resolved between them.**

5. I note the application, the nature of the suit and **Order 25 Civil Procedure Rules 2010** relating to withdrawal and discontinuation of suits. Furthermore, I bear in mind **Article 159 (2) (c) of the Constitution of Kenya, 2010, Section 20 of the Environment and Land Court Act, 2012 [2015]** and the case of **Council of Governors –vs- Senate & Another [2014] eKLR** on the promotion of alternative forms of dispute resolution. This is done in the interest of justice.

6. I find the application merited and it is made within the law. I accordingly allow the application to withdraw the suit.

7. Each party to bear own 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. C. L Kasamani for the appellant

N/A for the respondent

Ruth court assistant