



**Novapeku (PK) Construction and Engineering Company Limited  
& 2 others v County Government of Kiambu (Environment & Land  
Case 197 of 2018) [2024] KEELC 1363 (KLR) (7 March 2024) (Order)**

Neutral citation: [2024] KEELC 1363 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT THIKA  
ENVIRONMENT & LAND CASE 197 OF 2018**

**BM EBOSO, J  
MARCH 7, 2024**

**BETWEEN**

**NOVAPEKU (PK) CONSTRUCTION AND ENGINEERING COMPANY  
LIMITED ..... 1<sup>ST</sup> PLAINTIFF  
PETER KURIA NJOROGE ..... 2<sup>ND</sup> PLAINTIFF  
JAMES GACHERU KARIUKI ..... 3<sup>RD</sup> PLAINTIFF**

**AND**

**COUNTY GOVERNMENT OF KIAMBU ..... DEFENDANT**

**ORDER**

1. On 2/11/2023, this court issued the following verbatim order in relation to this suit.

“For the above reason, the order reserving a date for Judgment in this matter is hereby vacated and M/s Kanyi Kiruchi & Company Advocates are directed to comply with the laid down procedure through which an advocate may withdrew a claim on behalf of a litigant who is acting in person. If this is not done within 30 days from today, the proceedings conducted in this suit in the absence of the 3rd plaintiff shall stand set aside. Similarly, the amendment purporting to remove the 3rd plaintiff from this suit shall stand expunged from the pleadings.”

2. On 7/12/2023, Mr. Kanyi, counsel for the 1st and 2nd plaintiffs attended court and informed the court that the 3rd plaintiff had filed a notice withdrawing his claim. Counsel asked the court to reserve a date for Judgment in the matter. At that point, Thika Environment Land Court Registry had transitioned to e-filing effective from 1/7/2023. At the time counsel made the above presentation [7/12/2023], there was in the physical case file a photocopy of a notice of withdrawal of suit dated 3/11/2023, bearing



a very thin margin and expressed as having been signed by the 3rd plaintiff. The said notice is still in the physical case file.

3. Based on the above presentation by counsel the court reserved 7/3/2024 as a the date when Judgment in this suit would be rendered. While preparing to write the Judgment, it has emerged that the notice of withdrawal dated 3/11/2023 which is in the file folder was never uploaded onto the e-filing portal. Put differently, the notice of withdrawal dated 3/11/2023, though placed in the physical case file, was never filed. Indeed, there is no evidence of a properly uploaded notice in the e-portal.
4. In the circumstances, it follows that the order issued by the court on 2/11/2023 took effect on 3/12/2023, meaning that the hearing proceedings that were conducted in this suit in the absence of the 3rd plaintiff stood set aside and the amendments which purported to remove the 3rd plaintiff from this suit stood expunged.
5. Consequently, the court has no basis upon which to render a Judgment. For the above reasons, the order reserving a judgment date in this suit is hereby vacated.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT THIKA ON THIS 7TH DAY OF MARCH 2024**

**B M EBOSO**

**JUDGE**

**In the Presence of: -**

Mr Waihira for the Plaintiffs

Court Assistant: Hinga

