



Waititu & Gitonga (Suing as the Personal Representatives of the Estate of the Late Benjamin Ithinyai M' Narangui - Deceased) & John Ngotho Ndurere & James Muthami Ndurere (Suing as the Personal Representatives of the Estate of the Late Ndurere Muhonyo Gathi - Deceased) & another v Gethi & another (Civil Application E036 of 2022) [2022] KECA 1194 (KLR) (12 October 2022) (Ruling)

Neutral citation: [2022] KECA 1194 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CIVIL APPLICATION E036 OF 2022
F SICHALE, JA
OCTOBER 12, 2022**

BETWEEN

DAVID KIMENGERE WAITITU & DAVIS GITONGA (SUING AS THE PERSONAL REPRESENTATIVES OF THE ESTATE OF THE LATE BENJAMIN ITHINYAUI M' NARANGUI - DECEASED) & JOHN NGOTHO NDURERE & JAMES MUTHAMI NDURERE (SUING AS THE PERSONAL REPRESENTATIVES OF THE ESTATE OF THE LATE NDURERE MUHONYO GATHI - DECEASED) 1ST APPLICANT

JOHN NGOTHO NDURERE & JAMES MUTHAMI NDURERE (SUING AS THE PERSONAL REPRESENTATIVES OF THE ESTATE OF THE LATE NDURERE MUHONYO GATHI (DECEASED) 2ND APPLICANT

AND

ANGELA WAIRIMU GETHI 1ST RESPONDENT

MURUA LIMITED 2ND RESPONDENT

(Being an Application for Leave to lodge an Appeal out of time against the Judgment of the Environment & Land Court at Nyabururu (Oundo J), dated 12th November 2019 and amended on 5th May 2020.) IN (Nyabururu ELC Case No. 50 of 2020.)

RULING

1. Upon considering the motion dated June 23, 2022, brought pursuant to rules 4 and 53 of the [Court of Appeal Rules](#), (“The rules”), in which the applicants herein had sought to be granted leave to file an appeal out of time from the decision of Oundo J, delivered on November 12, 2019 and amended on



May 5, 2020, it transpired that this court had dismissed a similar application seeking extension of time on June 15, 2022 for non-attendance.

2. Upon considering the respondents grounds of opposition dated September 12, 2022 and the applicants letter dated September 15, 2022, seeking to withdraw the instant application, the applicants application dated June 23, 2022, is hereby marked as withdrawn with no order as to costs.

It is so ordered.

DATED AND DELIVERED AT NAKURU THIS 12TH DAY OF OCTOBER, 2022.

F. SICHALE

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JUDGE OF APPEAL

I certify that this is a true copy of the original.

Signed

DEPUTY REGISTRAR

