



IN THE COURT OF APPEAL

AT KISUMU

(CORAM: E . M. GITHINJI, HANNAH OKWENGU &

J. MOHAMMED, J.J.A.)

ELECTION PETITION CIVIL APPEAL NO. 2 OF 2017

BETWEEN

STEPHEN M. MOGAKA.....APPELLANT

AND

INDEPENDENT ELECTORAL AND

BOUNDARIES COMMISSION.....FIRST RESPONDENT

VINCENT KEMOSI MOGAKA.....SECOND RESPONDENT

RETURNING OFFICER, WEST

MUGIRANGO CONSTITUENCY.....THIRD RESPONDENT

(Appeal from the judgment of the High Court of Kenya at Nyamira,

(Makau, J.) dated 21st November, 2017

in

HIGH COURT ELECTION PETITION NO. 2 OF 2017)

ORDER OF THE COURT

This matter was listed for a notice for the appellant to show cause as to why his appeal should not be struck out for failing to take further action from the time the notice was filed.

Although the appellant has not attended Court, a notice of withdrawal of the appeal was filed yesterday through his advocate.

Mr. Mogikoyo, counsel for the 2nd respondent and holding brief for 1st respondent, applies for costs. We grant the same as the withdrawal was only done yesterday and counsel has had to attend Court.

In the circumstances, we mark the appeal as withdrawn under **Rule 81** of the **Court of Appeal Rules** and award costs to the respondents.

DATED at Kisumu this 19th June, 2018.

E. M. GITHINJI

.....

JUDGE OF APPEAL

HANNAH OKWENGU

.....

JUDGE OF APPEAL

J. MOHAMMED

.....

JUDGE OF APPEAL

I certify that this is

a true copy of the original.

DEPUTY REGISTRAR.