



IN THE COURT OF APPEAL

AT ELDORET

(CORAM: D. K. MUSINGA, JA (IN CHAMBERS))

CIVIL APPLICATION NO. NAI 247 OF 2013

BETWEEN

DAUDI KIPTUGENAPPLICANT

AND

COMMISSIONER OF LANDS1ST RESPONDENT

CHIEF LAND REGISTRAR, NAIROBI.....2ND RESPONDENT

THE HON. ATTORNEY GENERAL3RD RESPONDENT

HELDO FOODSTUFF LIMITED.....4TH RESPONDENT

DISTRICT LAND REGISTRAR, ELDORET.....5TH RESPONDENT

(Being an application for stay of execution of orders issued on 19th August, 2013 by honourable S. Munyao pending hearing and determination of an appeal against the ruling of the Honourable Justice S. Munyao delivered on 23rd day of August, 2013

in

ELC NO. 787 OF 2012)

ORDER

Mr Korir, learned counsel for the applicant, has sought leave to withdraw the application dated 6th September, 2013 that was scheduled to be heard this morning. On 4th September, 2013 he had filed a notice of appeal which he also wishes to withdraw. The applicant's counsel had not served today's application but yesterday, 26th May, 2015 he filed and served a notice of withdrawal of the application. In the circumstances, he does not think that the respondent is entitled to any costs.

Mr Mbeja, learned counsel holding brief for M/S Komen Kipchirchir & Company, who are on record for the respondent, has no objection to the withdrawal of the application and the notice of appeal but prays for costs of the application. He however concedes that they had not been served with the application that was set to be heard today but they had been served with a hearing notice. That is why he has

attended court.

I have considered the brief submissions by counsel. I grant leave to the applicant to withdraw the application dated 6th September, 2013 as well as the notice of appeal as the application has been overtaken by events. The same is now marked as withdrawn under rule 52 of this Court's Rules. The applicant shall bear the costs of the application.

Dated at Eldoret this 27th day of May, 2015.

D. K. MUSINGA

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JUDGE OF APPEAL

I certify that this is
a true copy of t

DEPUTY REGISTRAR