



**Nyabihiri & another v Nyabihiri (Environmental and Land Originating  
Summons 92 of 2018) [2024] KEELC 14199 (KLR) (22 July 2024) (Ruling)**

Neutral citation: [2024] KEELC 14199 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MIGORI  
ENVIROMENTAL AND LAND ORIGINATING SUMMONS 92 OF 2018  
GMA ONGONDO, J  
JULY 22, 2024**

**BETWEEN**

**SUGUTA NYABIHIRI ..... 1<sup>ST</sup> PLAINTIFF**

**ROBI BUKIRA NYABIHIRI ..... 2<sup>ND</sup> PLAINTIFF**

**AND**

**SAMWEL CHACHA NYABIHIRI ..... DEFENDANT**

**RULING**

1. This ruling is with regard to an application by way of a Notice of Motion dated 13<sup>th</sup> May 2024 by the applicant/defendant through Orina and Company Advocates for, inter alia, that there be stay of sale, transfer and disposal of a quarter of land reference Bukira/Bwisaboka/702 pending the outcome of the intended review of the judgment herein, the applicant to reopen the case, amend the pleadings and set suit down for hearing.
2. Mr S. Orina learned counsel for the applicant/defendant has applied for the withdrawal of the application to enable the applicant regularise the position herein.
3. Mr Agure Odero learned counsel for the respondents/plaintiffs has no opposition to the prayer for withdrawal of the application.
4. In the foregone, the applicant is entitled to withdraw the application as he has not demonstrated any bad faith herein as noted in Oscar Oluoch Ouma Kabote and Loice Kawaka & others (2022) eKLR.
5. To that end, I find merit in the prayer for withdrawal of the application.
6. Accordingly, the application dated 13<sup>th</sup> May 2024, be and is hereby marked as withdrawn and each party shall bear their respective costs.
7. It is so ordered.



**DATED AND DELIVERED VIRTUALLY AT HOMA BAY THIS 22<sup>ND</sup> DAY OF JULY 2024.**

**GEORGE M. A ONG'ONDO**

**JUDGE**

Present

Mr. S. Orina learned counsel for the applicant/defendant

Mr Agure Odero learned counsel for the respondents/plaintiffs

Mr Tom Maurice, court assistant

