



**Mwangi v Kandie & 6 others (Environment & Land Case E135 of 2023)
[2024] KEELC 13626 (KLR) (5 December 2024) (Ruling)**

Neutral citation: [2024] KEELC 13626 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE E135 OF 2023
LN MBUGUA, J
DECEMBER 5, 2024**

BETWEEN

JOSEPH NDIINGURI MWANGI PLAINTIFF

AND

SAMSON KANDIE 1ST DEFENDANT

**BASELINE LOGISTICS AND INVESTMENTS COMPANY LIMITED 2ND
DEFENDANT**

MICHAEL NJAU NJOROGE 3RD DEFENDANT

PETER NJUGUNA NJENGA 4TH DEFENDANT

THE DIRECTOR OF SURVEYS 5TH DEFENDANT

THE CHIEF LAND REGISTRAR 6TH DEFENDANT

**ACE PRESTIGE AUTOS LIMITED T/A ACE PRESTIGE
MOTORS 7TH DEFENDANT**

RULING

1. This suit was filed via a plaint dated 30.10.2023, but a notice of withdrawal of the suit was filed on 8.3.2024 and the suit was marked as withdrawn on 22.4.2024. The 1st and 2nd defendants however prayed for costs, of which the court directed the parties to agree on the same failure to which, the court would give directions hence this ruling.
2. I have considered the record as well as the submissions proffered by the 1st defendant dated 1.10.2024. The 1st defendant contends that they were duly appointed in this matter hence they are entitled to costs.
3. The provisions of Section 27 of the *Civil Procedure Act* stipulate that costs of and incidental to all suits shall be in the discretion of the court or judge. In Cecilia Karuru Ngayu v Barclays Bank of Kenya &



Another [2016] eKLR, the Court Outlined the conditions a court should adhere to in determining an award of Costs when it held as follows;

“To my mind, in determining the issue of costs, the court is entitled to look at inter alia (i) the conduct of the parties, (ii) the subject of litigation, (iii) the circumstances which led to the institution of the proceedings, (iv) the events which eventually led to their termination, (v) the stage at which the proceedings were terminated, (vi) the manner in which they were terminated, (vii) the relationship between the parties and (viii) the need to promote reconciliation amongst the disputing parties pursuant to Article 159 (2) (c) of *the Constitution*.”

4. In the case at hand, I have taken into account the stage at which the proceedings were terminated. I find that the 1st defendant filed his memorandum to enter appearance on 27.12.2023. From that date to when the notice of withdrawal of the suit was filed on 8.3.2024, no activity was undertaken in the matter. Thus taking into account the stage of these proceedings, I direct that each party shall bear their own costs of the suit.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 5th DAY OF DECEMBER 2024 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:

M/s Nyambura for 1st Defendant

Court Assistant: Vena

