



Koriata & 15 others v Director of Criminal Investigations & 2 others (Criminal Miscellaneous Application E007 of 2025) [2025] KEHC 11874 (KLR) (31 July 2025) (Ruling)

Neutral citation: [2025] KEHC 11874 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAROK
CRIMINAL MISCELLANEOUS APPLICATION E007 OF 2025**

CM KARIUKI, J

JULY 31, 2025

BETWEEN

ROBERT KORIATA 1ST APPLICANT
ANTONY NAMPASO 2ND APPLICANT
FRANCIS KOROS 3RD APPLICANT
SANKALE NABAALA 4TH APPLICANT
DOMINIC NCHOE 5TH APPLICANT
JULIUS KISEMEI 6TH APPLICANT
DENNIS MAKO 7TH APPLICANT
PURKEI KOONYI 8TH APPLICANT
TUNAI NTOKOIWUAN 9TH APPLICANT
JOHN NCHOE 10TH APPLICANT
JAMES NABAALA 11TH APPLICANT
MEIPONYI NABAALA 12TH APPLICANT
JOSEPH KOROS 13TH APPLICANT
CHARLES NABAALA 14TH APPLICANT
FRANCIS TINKA 15TH APPLICANT
MERCY NAMPASO 16TH APPLICANT

AND

DIRECTOR OF CRIMINAL INVESTIGATIONS 1ST RESPONDENT
INSPECTOR GENERAL OF POLICE 2ND RESPONDENT



RULING

1. The Applicants initiated proceedings herein via Notice of Motion dated 20/2/2025 for conservatory orders and anticipatory bail against DCI, IG, and the DPP.
2. Interim orders were granted; subsequently, the Interested Parties sought to be enjoined in the matter inter alia, and they were enjoined as Interested Parties.
3. Before the matter could be heard for both the initial applicant Applications and the Interested Parties' applications, the initial Applicants sought to withdraw the application altogether as events had overtaken them.
4. The Respondents/Interested Parties opposed the move and alternatively sought costs.
5. The court, in reviewing the record and the parties' arguments, respects the Applicants' rights. It upholds the principle that a party cannot be forced not to withdraw its matter. The decision to apply was the Applicants' own decision, and thus it is their right to terminate it by withdrawing the matter subject to issues on costs.
6. The court seeks guidance from Section 27 of the Criminal Procedure Code and authorities that have applied similar instances, such as the one obtaining in this matter, which involves costs follow event. In *Supermarine Handling Services Ltd vs Kenya Revenue Authority*, Civil Appeal No. 85 of 2006 while quoting with approval *Devram Dattan v Dawda* [1949] EACA 35 held that:

“Costs of any action or other matter or issue shall follow the event unless the court or Judge shall for good reason otherwise order. It is well established that when the decision of such a matter as the right of a successful litigant to recover his costs is left to the discretion of the Judge who tried his case”
7. The Applicant seeks to terminate their case. Since the Interested Parties have been admitted as parties and have incurred expenses, they are entitled to the costs. Thus, the same are granted.
8. The bill of costs shall be lodged before the taxing master/or Deputy Registrar, who will tax the same by Schedule 6 of the Advocate Remuneration Order.

DATED AND DELIVERED IN NAROK THIS 31ST DAY OF JULY, 2025.

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CHARLES KARIUKI
JUDGE

