



**Countryside Dairy Limited v Mbugua (Civil Appeal  
E006 of 2024) [2024] KEHC 8199 (KLR) (26 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 8199 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
CIVIL APPEAL E006 OF 2024  
JK NG'ARNG'AR, J  
JUNE 26, 2024**

**BETWEEN**

**COUNTRYSIDE DAIRY LIMITED ..... APPLICANT**

**AND**

**STEPHEN NJENGA MBUGUA ..... RESPONDENT**

**RULING**

1. The appellant filed the Notice of Withdrawal of Appeal dated 7/6/2024 accompanied with a letter of even date. It was disclosed that the parties had entered into an agreement and settled the claim on 7/6/2024 thus the filing of the notice to withdraw. The Supreme Court in *Nicholas Kiptoo arap Korir Salat v IEBC & 7 Others* SC APP. NO. 16 OF 2014. held that; “a party’s right to withdraw a matter before the court cannot be taken away. A court cannot bar a party from withdrawing his matter. All that the court can do is to make an order as to costs where it is deemed appropriate.” The same is pegged under Order 25 Rules 1 & 2 (1) of *Civil Procedure Rules*, 2010 which provides for the absolute right which a plaintiff can exercise at his will any time before judgment is delivered. See *Allah Baksb v Niamat Ali* 1892 All WN 53 (1).
2. Considering the foregoing, I see no reason not to grant the request. Consequently, the instant appeal is hereby withdrawn with no orders as to costs.

**It is so ordered.**

**DATED and DELIVERED VIRTUALLY at NAIROBI this 26<sup>th</sup> day of June, 2024.**

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**J.K. NG'ARNG'AR, HSC**

**JUDGE**

In the presence of:-



Mwarande for the Appellant  
Ngaruinge for the Respondent  
Court Assistant- Peter Ong'idi  
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