



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT**  
**AT HOMABAY**  
**ELC PETITION NO. 9 OF 2021**  
**(FORMERLY MIGORI ELC PETITION NO. 10 OF 2019)**

**PETER ODIWUOR NGOGE .....PETITIONER**

**VERSUS**

**DICKSON AROGO AWENDO ..... 1<sup>ST</sup> RESPONDENT**

**YUKABETH MIDIGO OWIYO.....2<sup>ND</sup> RESPONDENT**

**THE LAND CONTROL BOARD THROUGH THE DISTRICT OFFICER (KASIPUL DIVISION ...1<sup>ST</sup> INTERESTED PARTY**

**THE DISTRICT LAND REGISTRAR RACHUONYO SOUTH DISTRICT.....2<sup>ND</sup> INTERESTED PARTY**

**THE AREA CHIEF MR. SHELLEMIAM MBAKA.....3<sup>RD</sup> INTERESTED PARTY**

**THE FORMER AREA CHIEF MR. LAWRENCE OCHICH ....OLIECH .....4<sup>TH</sup> INTERESTED PARTY**

**THE HONOURABLE ATTORNEY GENERAL .....5<sup>TH</sup> INTERESTED PARTY**

**RULING**

1. This ruling is in respect of the Petitioner’s claim against the 3<sup>rd</sup> and 4<sup>th</sup> interested parties herein. He has prayed that:

“ in view of the 1<sup>st</sup> Respondent’s admission as contained in his replying affidavit sworn on 5/9/2019 filed on even date, I do not see the value of maintaining this case against the other parties who were witnesses. I therefore, withdraw this petition against the 3<sup>rd</sup> and 4<sup>th</sup> interested parties herein”

2. By a petition dated 26<sup>th</sup> May, 2017, amended on 19<sup>th</sup> September, 2017 and further amended on 17<sup>th</sup> September, 2019 and filed on 19<sup>th</sup> September 2019, the Petitioner, Peter Odiwuor Ngoge is seeking against the respondents and interested parties the orders, interalia;

“ A declaration that the highly secrete collusive and fraudulent transfer of the parcel of land known as West Kasupul/Kotieno-Kochich/359 into the 1<sup>st</sup> respondent herein in or about the year 1990 and its subsequent subdivisions and transfer thereof to the 2<sup>nd</sup> respondent herein as a gift and further alienation to other unknown third parties were null and void, unconstitutional, fraudulent and unlawful and contrary to section 31 of the Law of Succession Act and sections 6 and 8 of the land Control Act”.

3. By a notice dated, 19<sup>th</sup> October, 2021, the Deputy Registrar of this Court duly notified the parties of this date.

4. Mr. Migele holding brief for Mr. Achillah learned counsel for the 1<sup>st</sup> respondent has no issue with the Petitioner’s prayer as captured in paragraph 1 hereinabove.

5. Having heard the Petitioner and Mr. Migele, learned counsel for 1<sup>st</sup> respondent alongside the interest of justice, I find the Petitioner’s prayer sound. I proceed to order that the Petition against the 3<sup>rd</sup> and 4<sup>th</sup> interested parties be and is hereby marked as withdrawn with no orders as to costs.

6. Further, it is hereby ordered that the instant petition against the respondents and other interested parties, be heard by way of written submissions.
7. The Petitioner to file and serve his submissions within the next 14 days from this date.
8. The respondents and the other interested parties to file and serve their submissions within 14 days from the date pointed out at paragraph seven (7) hereinabove.
9. The Petition be mentioned on 8/12/2021, to confirm compliance and for directions.
10. The other respondents and other interested parties be served forthwith.
11. It is so ordered.

**DELIVERED, DATED AND SIGNED AT HOMA-BAY THIS 10<sup>TH</sup> DAY OF NOVEMBER, 2021**

**G.M.A ONG'ONDO**

**JUDGE**

In the presence of:

The petitioner in person

Mr. Migele holding brief for Mr. Achillah, Learned Counsel for the 1<sup>st</sup> Respondent