



**Otando v Hongo (Environment and Land Miscellaneous Application  
E018 of 2025) [2025] KEELC 18515 (KLR) (17 December 2025) (Ruling)**

Neutral citation: [2025] KEELC 18515 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KISUMU  
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E018 OF 2025  
SO OKONG'O, J  
DECEMBER 17, 2025**

**BETWEEN**

**HELLEN OTENGO OTANDO ..... APPLICANT**

**AND**

**ALOICE OWILLA HONGO ..... RESPONDENT**

**RULING**

1. The Applicant is well known to me. She was born in my village in Kisumu East Sub-County, Kisumu County, and got married in Kisumu West Sub-County. In addition to us being from the same village, the Applicant is a family friend and has visited me at home.
2. This matter came before me for the first time on 2<sup>nd</sup> April 2025, when I directed that the Applicant's Notice of Motion application dated 25<sup>th</sup> March 2025 be served for hearing on 23<sup>rd</sup> June 2025. On 23<sup>rd</sup> June 2025, I directed that the application be heard by way of submissions. On 23<sup>rd</sup> September 2025, I fixed the matter for ruling on 17<sup>th</sup> December 2025. Having not considered the application in depth, I did not realise on the three occasions the matter came before me that the Applicant was known to me. This was because I could not recognise the Applicant with the names used in the application. I have known the Applicant over the years with her maiden name. It was not until I was going through the Applicant's application for the purposes of writing the ruling that I realised that the Applicant is known to me.
3. In the circumstances, I have to recuse myself from handling this matter so that I am not accused of bias by the Respondent to the application should I rule against him.
4. In *Accredo AG & 3 others v. Stefano Ucceli & another* [2018] eKLR, the court stated as follows:

“The test for establishing real likelihood of bias has evolved over time from the point where suspicion of bias was sufficient to the reasonable man test, that is, whether a reasonable



man taking into account the surrounding circumstances would conclude that there is a real likelihood or reasonable apprehension of bias. This current position was succinctly set out by the House of Lords in *Porter vs. Magill* [2002] 1 All ER 465 as follows:

“[T]he question is whether the fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased.”

5. Expounding on that test the Supreme Court of Canada in *R. vs. S. (R.D.)* (supra) had this to say:

“The test is what would an informed person, viewing the matter realistically and practically — and having thought the matter through — conclude. This test contains a two-fold objective element: the person considering the alleged bias must be reasonable and the apprehension of bias itself must also be reasonable in the circumstances of the case.”

6. For the foregoing reasons, I recuse myself from handling this matter. The Applicant’s Notice of Motion application dated 25<sup>th</sup> March 2025 shall be placed before Asati J. for directions and further orders.

**DELIVERED AND SIGNED AT KISUMU ON THIS 17<sup>TH</sup> DAY OF DECEMBER 2025**

**S. OKONG’O**

**JUDGE**

Ruling delivered virtually through Microsoft Teams Video Conferencing Platform in the presence of:

Ms. Okaka h/b for Mr. Yogo for the Applicant

Ms. Odhong’ for the Respondent

Ms. J. Omondi-Court Assistant

