



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT KISUMU**

**CONSTITUTIONAL PETITION CASE NO.1 OF 2017**

**[FORMERLY HIGH COURT CONSTITUTION PETITION CASE NO. 12 OF 2014]**

**IN THE MATTER OF ARTICLES 23, 27 (1) AND 40(1) 2 (A) 3 OF THE**

**CONSTITUTION OF KENYA**

**AND**

**IN THE MATTER OF CONTRAVENTION OF RIGHTS AND FREEDOM UNDER**

**ARTICLES 40 (A) 2(A) 3 OF THE CONSTITUTION OF KENYA**

**AND**

**IN THE MATTER OF SECTION 13 (3) OF THE ENVIRONMENT AND**

**LAND COURT ACT 2011**

**BETWEEN**

**AUGUSTINE GUYA ORIRE.....PETITIONER**

**VERSUS**

**THE CHAIRMAN OF NYANDO LAND CONTROL BOARD.....1<sup>ST</sup> RESPONDENT**

**JOHN ODOYO ATIENO.....2<sup>ND</sup> RESPONDENT**

**DISTRICT LAND REGISTRAR, NYANDO.....3<sup>RD</sup> RESPONDENT**

**RULING**

Having heard counsel for the Petitioner, and the 2<sup>nd</sup> Respondent and having perused the petition dated 16<sup>th</sup> July 2014, replying affidavit of the 2<sup>nd</sup> Respondent sworn 22<sup>nd</sup> September 2014, and that of S. Lukoko Were, the 3<sup>rd</sup> Respondent, sworn on 10<sup>th</sup> February 2015, and noting that the counsel for the petitioner has made an oral application to be allowed to withdraw the petition, the court orders as follows;

- a) That though the 2<sup>nd</sup> Respondent was enjoined as a party in the petition, there was no specific

orders sought that were directed to him. That the 2<sup>nd</sup> Respondent nevertheless filed his response to the application and he is therefore entitled to costs.

b) That the Petitioner's counsel application to withdraw the petition is therefore allowed and the Petition dated 16<sup>th</sup> July 2014, and the notice of motion of even date are herein marked withdrawn with costs to 2<sup>nd</sup> Respondent.

**S.M. KIBUNJA**

**ENVIRONMENT & LAND – JUDGE**

DATED AND DELIVERED THIS 22<sup>ND</sup> DAY OF MARCH 2017

In presence of;

Petitioner            Absent

Respondents        2<sup>nd</sup> present

Counsel             Mr Anyumba for Olel for 2<sup>nd</sup> Respondent.

**S.M. KIBUNJA**

**ENVIRONMENT & LAND – JUDGE**

**22/3/2017**

22/3/2017

S.M. Kibunja judge

Court clerk Oyugi

2<sup>nd</sup> Respondent present

Mr Anyumba for Mr. Olel for 2<sup>nd</sup> Respondent

Court: Ruling dated and delivered in open court in presence of the 2<sup>nd</sup> Respondent and Mr. Anyumba for Olel for 2<sup>nd</sup> Respondent.

**S.M. KIBUNJA**

**ENVIRONMENT & LAND – JUDGE**

**22/3/2017**