



**Aluoch v Okeya (Environment & Land Petition 5 of 2021)  
[2023] KEELC 175 (KLR) (18 January 2023) (Ruling)**

Neutral citation: [2023] KEELC 175 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY  
ENVIRONMENT & LAND PETITION 5 OF 2021**

**GMA ONGONDO, J**

**JANUARY 18, 2023**

**IN THE MATTER OF THE CONSTITUTION OF KENYA, ARTICLE 3(1);  
10(2B); 19(2&3C); 20 (1 &2); 22 (1); 23; 24 (3); 27(4&5); 28; 40; AND 60(1A) & (4)**

**IN THE MATTER OF THE CONSTITUTION OF KENYA (PROTECTION OF RIGHTS AND  
FUNDAMENTAL FREEDOMS) PRACTICE AND PROCEDURE RULES, 2013, RULE 4.**

**BETWEEN**

**GEORGE OTIENO ALUOCH ..... PETITIONER**

**AND**

**MAURICE ALUOCH OKEYA ..... RESPONDENT**

**RULING**

1. On January 20, 2019, the petitioner, George Atieno Aluoch through, M/s Nyauke and company Advocates, filed a petition dated August 20, 2018 seeking the orders *infra*;
  - a. An order of declaration that the respondents actions of showing the petitioner where to establish his home and proceeding to establish a home for the petitioner on his property is in line with Luo customary law and is protected under the Constitution and as such the portion where the petitioner's home is situated amounts to gift *inter vivos* protected at law.
  - b. An order directing each party to bear their own costs as this is a matter involving close family members.
2. The respondent, Maurice Aluoch Okeya through M/s Owade and company Advocates, filed a memorandum of appearance dated February 20, 2019 on even date.
3. There is no response to the petition.



4. The respondent's counsel has severally been notified of this petition as discerned in notices of March 9, 2021 and September 14, 2021, among others, herein.
5. Clearly, the respondent opted not to respond to the petition; see also *Ogada-versus Mollin* (2009) KLR 620.
6. Besides, the petitioner's counsel has prayed for withdrawal of the petition with no orders as to costs.
7. In the result, the petitioner's application is merited and this petition is marked as withdrawn with no orders as to costs.
8. It is so ordered.

**DELIVERED, DATED AND SIGNED AT HOMA-BAY THIS 18TH DAY OF JANUARY 2023.**

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

**JUDGE**

Present

Ms Odera learned counsel for Petitioner.

Okello, Court Assistant

