



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT EMBU

JUDICIAL REVIEW MISC. APPLICATION NO. 59 OF 2011

IN THE MATTER OF THE LANDS DISPUTES TRIBUNAL ACT NO.18 OF 1990

AND

IN THE MATTER OF L.R. TITLE NO. MWEA/TEBERE/B/28

AND

**IN THE MATTER OF CENTRAL PROVINCE LAND DISPUTES APPEALS TRIBUNAL AWARD OF
29/6/2011 AS EARLIER ADOPTED BY THE RESIDENT MAGISTRATE WANG'URU AS JUDGMENT
OF 7/9/2006**

BETWEEN

KIUNGA MURIUKI..... APPLICANT

VERSUS

CENTRAL PROVINCE LAND DISPUTES APPEAL TRIBUNAL 1ST RESPONDENT

THE RM'S COURT WANG'URU 2ND RESPONDENT

THE HON. THE A.G. 3RD RESPONDENT

BETWEEN

EDITH KARIUKO KIBICHO 1ST INTERESTED PARTY

PHILLIS KARIA KIBICHO 2ND INTERESTED PARTY

JANET MUTHEITHIA KIMA 3RD INTERESTED PARTY

RULING

This is the Chamber Summons dated 19/9/2011. It's seeking leave to file Judicial Review for Orders of Certiorari and Prohibition quashing Orders made by the Central Province Land Disputes Appeals Tribunal and the Mwea Division Land Disputes Tribunal and the Judgment of Wang'uru Resident Magistrate's Court in respect of Land Parcel Title No.MWEA/TEBERE/B/28 registered in the name of Applicant. It's supported by the statement of facts and verifying affidavit. He has annexed his land certificate (11) and certificate of search (12). Also annexed are the proceedings before the Land Disputes Tribunal (13).

Edith Kariuko Kibicho the 1st interested party filed a Replying affidavit saying they are entitled to utilize the land just as the Applicant is. Ms Wambugu Kariuki for the Applicants submitted that the tribunal lacked jurisdiction. He cited several authorities e.g. **MUGO MUKERE -VS- PROVINCIAL LAND APPEALS COMMITTEE BOARD FOR EASTERN & ANOTHER HIGH COURT EMBU JR NO. 40 OF 2008** .

The Application before this court is for leave to file Judicial Review and the leave to operate as stay. All that the Applicant needs to show is that he has an arguable case. Whether the parties are relatives or not did the Tribunal have jurisdiction to deal with interest in Land registered under the Registered Land Act".

In the case of **WAMWEA –VS- CATHOLIC DIOCESE OF MURANGA REGISTERED TRUSTEES [2003] KLR 389** the court of Appeal held that the Land Disputes Tribunals and the Land

Disputes Appeals Committees do not have jurisdiction to hear disputes over title to land. Owing to what the Tribunals did the Applicant has an arguable case. The Application was filed within the 6 months required.

I therefore grant prayers 2 & 3 of the Chamber Summons dated 19/9/2011. Prayer 3 is limited to 60 days.

The Substitutive Motion to be filed within 21 days.

DATED, SIGNED AND DELIVERED AT EMBU THIS 14TH DAY OF DECEMBER 2011.

H.I. ONG'UDI

J U D G E



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