



Case Number:	Miscellaneous Application 21 of 2008
Date Delivered:	16 Dec 2009
Case Class:	Civil
Court:	High Court at Kisii
Case Action:	Ruling
Judge:	Daniel Kiio Musinga
Citation:	REPUBLIC V URIRI LAND DISPUTES TRIBUNAL Ex-parte JOHN ODHIAMBO LEO [2009] eKLR
Advocates:	-
Case Summary:	<b>Judicial Review-Certiorari-Jurisdiction-Jurisdiction of the Lands Dispute Tribunal</b>
Court Division:	-
History Magistrates:	-
County:	-
Docket Number:	-
History Docket Number:	-
Case Outcome:	-
History County:	-
Representation By Advocates:	-
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-

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**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**OF KISII**  
**Miscellaneous Application 21 of 2008**

**IN THE MATTER OF: AN APPLICATION BY JOHN**

**ODHIAMBO LEO FOR JUDICIAL  
REVIEW (CERTIORARI AND PROHIBITION)**

**AND**

**IN THE MATTER OF: LAND DISPUTES TRIBUNAL ACT,**

**NO. 18 OF 1990**

**AND**

**IN THE MATTER OF: LAND DISPUTES TRIBUNAL**

**(URIRI DIVISION)**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**VERSUS**

**URIRI LAND DISPUTES TRIBUNAL ..... RESPONDENT**

**AND**

**JAMES OWINO AKUMU ..... INTERESTED PARTY**

**AND**

**EX-PARTE**

**JOHN ODHIAMBO LEO**

**RULING**

This application was not opposed, despite the fact that the respondent and the interested party were duly served. The interested party instructed M/s Omoya & Company Advocates who filed a Notice of Appointment of Advocates on 29<sup>th</sup> August, 2008. However, no affidavit was filed in reply to the ex-parte applicant's affidavit.

The application is for an order of certiorari to remove into this court and quash the proceedings of the respondent emanating from Land Dispute Case No. 0011 of 2007 concerning the ex-parte applicant's land known as **KANYAMKAGO/KAWERE I/1815** hereinafter referred to as "**the suit land.**"

The application also seeks an order of prohibition to prohibit the respondent and/or such other tribunal from hearing, further hearing, deliberating and/or in any other way dealing with issues pertaining to ownership of the suit land.

The ex parte applicant was registered as the proprietor of the suit land on 7<sup>th</sup> June, 2005 and thereafter issued with a title deed. In 2007 the interested party filed the aforesaid land suit before the respondent claiming that he is the owner of the land or a share thereof.

The respondent has commenced proceedings with a view to determining the issue of ownership of the suit land.

The respondent does not have jurisdiction to hear such kind of a claim. See **WAMWEA –VRS- CATHOLIC DIOCESE OF MURANGA REGISTERED TRUSTEES** [2003] KLR 389. Its jurisdiction is clearly defined under **section 3 (l)** of the **Land Disputes tribunals Act**.

If the interested party believes that he has a valid claim over the suit land or any portion thereof, he should file the same in the High Court of Kenya. The proceedings before the said tribunal are a nullity.

I allow this application. The interested party shall bear the costs of the application.

**DATED, SIGNED AND DELIVERED AT KISII THIS 16<sup>TH</sup> DAY OF DECEMBER, 2009.**

**D. MUSINGA**

**JUDGE.**

**16/12/2009**

Before D. Musinga, J.

Mobisa – cc


Mr. Ochwangi for the applicant

N/A for the respondents

**Court:** Ruling delivered in open court on 16<sup>th</sup> December, 2009.

**D. MUSINGA**

**JUDGE.**

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