



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

JUDICIAL REVIEW APPLICATION NO. E001 OF 2020

IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW IN THE NATURE OF CERTIORARI

AND

IN THE MATTER OF ORDER 53 OF THE CIVIL PROCEDURE RULES 2010

AND

IN THE MATTER OF THE LAW REFORM ACT CAP 26 AND ALL OTHER ENABLING PROVISIONS OF THE LAW

AND

IN THE MATTER OF THE PRINCIPAL MAGISTRATES COURT AT SIAYA

(LAND CASE NO. 35 OF 2018)

AND

IN THE MATTER OF THE LAND ACT CAP 6 AND THE LAND REGISTRATION ACT CAP 3 OF 2012 LAWS OF KENYA

AND

IN THE MATTER OF L.R. NO. NORTH GEM/SIRIWO/806

BETWEEN

JOAB ONYANGO WAROMAPPLICANT

VERSUS

THE PRINCIPAL MAGISTRATES COURT..... 1ST RESPONDENT

AND

JOAB ODENY OGALO 2ND INTERESTED PARTY

RULING

1. From the application and annexures including judgment of the Lower Court, annexed, it is clear that the subject matter of the dispute between the parties is purely land. This court is estopped and barred by **Article 165 (2) and (5) (b) of the Constitution as read with Section 13 of the Environment and Land Court Act** from hearing and determining disputes involving ownership and occupation of land.
2. Jurisdiction in Judicial Review matters of this nature is vested in the **Environment and Land Court as provided for in Article 165(2) (b) of the Constitution and Section 13 (7) of the Environment and Land Court Act.**
3. Therefore, for want of jurisdiction, I decline to entertain or certify the application under Certificate of Urgency as presented. The same is struck out. The applicant to lodge proceedings before the right court with jurisdiction.

4. This file is closed. Deputy Registrar to extract the order herein and serve the Applicant's Counsel.

5. Orders accordingly.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 18TH DAY OF DECEMBER, 2020

R.E. ABURILI

JUDGE