



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERRICHO

JUDICIAL REVIEW APPLICATION NO. 23 OF 2011 (J.R)

PHILIP KIRUI KORIR.....1ST APPLICANT

DAVID LANGAT.....2ND APPLICANT

WILSON KIPKORIR BARCHOK.....3RD APPLICANT

VERSUS

CHAIRMAN BURETI LAND DISPUTE TRIBUNAL1ST RESPONDENT

THE PRINCIPAL MAGISTRATES COURT, SOTIK....2ND RESPONDENT

LUDIA MUTAI.....3RD RESPONDENT

WILSON LANGAT.....4TH RESPONDENT

RULING

1. What is before me is an application dated 23rd June, 2011 for Judicial Review brought under **Order 53 Rule 1(2)** and **3(1)** of the **Civil Procedure Rules** and **section 3A** of the **Civil Procedure Act**. The said application seeks orders of certiorari removing unto this court for purposes of being quashed the 2nd Respondent's order dated 19th May, 2011 together with the entire proceedings arising therefrom and or connected therewith pursuant to the 1st Respondent's award dated 12th April, 2011. The said award was read and adopted as a judgment of the court in Sotik Principal Magistrate's Court Misc Civil Application No. 5 of 2011.

2. The application is based on the Statutory Statement and the Verifying Affidavit of Philip Kirui Korir sworn on the 8th June, 2011. The application is made pursuant to the Ruling of the court dated 22nd June, 2011 in which the court granted leave to the Applicant to apply for certiorari to remove unto this court for quashing the decision of Sotik PM Misc Civil Application No. 5 of 2011 in accordance with **Order 53 Rule 1** of the **Civil Procedure Rules**.

3. The main grounds for the application are threefold; first that the Tribunal had no jurisdiction to determine a matter touching on title to land. Secondly, the claim was statute barred since the claim arose in 2003. Thirdly, the Tribunal sought to determine a claim in which the proprietors of the land were deceased without any of the parties having taken out letters of administration.

4. Despite being served with the application and a hearing notice the respondents neither filed a response to the application nor attended court when the application came up for hearing.

5. In the absence of any opposition to the application and having considered the applicant's counsel's submissions I am satisfied that the application has merit and I therefore grant it.

6. Accordingly, I make the following orders:

a) That an order of certiorari is hereby issued removing into this court for purposes of being quashed the 2nd Respondent's order dated 19th May, 2011 together with the entire proceedings arising therefrom and or connected therewith pursuant to the 1st Respondent's award dated 12th April, 2011 which award was read and adopted as a judgment of the court in Sotik Principal Magistrate's Court Misc Civil Application No. 5 of 2011.

b) The costs of this application be borne by the Respondents.

Dated, signed and delivered at Kericho this 30th day January, 2018.

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J.M ONYANGO

JUDGE

In the presence of :

1. Mr. Orina for the Applicant
2. No Appearance for the Respondent
3. Court Assistant – Rotich