



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

MISC. APPLICATION NO 100 OF 2009

**IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR A JUDICIAL
REVIEW WRIT OF PROHIBITION**

AND

**IN THE MATTER OF THE LAW REFORM ACT, CAP 26 LAWS OF KENYA AND ORDER
LIII THE CIVIL PROCEDURE RULES**

AND

**IN THE MATTER OF IMPLEMENTATION OF A DECISION IN OBJECTIONS NOS 829/97
A,B,C, AND E OVER LAND PARCEL NOS 3436,3455,3719 AND 3707 SITUATED AT
AMWATHI MAUA ADJUDICATION SECTION**

BETWEEN

ISAIAH MIRITIEX-PARTE APPLICATION

VERSUS

IGEMBE DISTRICT LAND ADJUDICATION AND

SETTLEMENT OFFICER.....1ST RESPONDENT

ATTORNEY GENERAL2ND RESPONDENT

AND

JOSEPH MWENDA MALEBE.....1ST INTERESTED PARTY

JOSEPH NTUMBURI..... 2ND INTERESTED PARTY

STEPHEN MWITI.....3RD INTERESTED PARTY

JUSTUS MURERWA4TH INTERESTED PARTY

R U L I N G

This application is dated 22nd day of December, 2009 and seeks orders:-

- a. **THAT the Honourable Court be pleased to certify this application extremely urgent and hear it**

- on priority basis in the first instance.*
- b. ***THAT*** the Honourable Court be pleased to grant the ex-parte applicant leave to apply for a Judicial Review writ of Prohibition prohibiting implementation of the decisions of the 1st Respondent made in objection 829/97 A,B, C and E over land parcel No 3436, 3455, 3719 and 3707 situated at Amwathi Maua Adjudication Section.
 - c. ***THAT*** the Honourable Court be pleased to order that leave so granted do operate as a stay of implementation of the decisions made by the 1st Respondent in objection 829/97 A,B,C and E over Land parcel No. 3436, 3455, 3719 and 3707 situated in Amwathi Maua Adjudication Section.

It is supported by the Supporting Affidavit of Isahiah Miriti, the exparte application and the following grounds:-

1. ***THAT*** the 1st Respondent heard and determined the afore mentioned objections without giving the ex-parte applicant who was the objector a chance to be heard.
2. ***THAT*** the 1st Respondent's decisions were arrived at arbitrarily without giving the ex-parte applicant a fair hearing.
3. ***THAT*** the 1st Respondent has given a notice dated 17/12/2009 to the ex-parte applicant that the implementation of the decision is scheduled for 22.12.2009.

On 16th February, 2016, the parties, by Consent, agreed to have the application allowed.

In the circumstances, the application is allowed.

Delivered in open Court at Meru this 16th day of February, 2016 in the presence of:-

CC : Lilian/Daniel

Kariuki for the Exparte Applicant

Ojiambo for 1st and 2nd Interested Parties.

Kimathi for 1st and 2nd Respondents

P.M. NJOROGE

JUDGE