

5. Section 3 (8) of the Land Disputes Tribunal Act (Now repealed) provided as follows;-

3(8) "The Tribunal shall give reasons for its decision, which shall contain a summary of the issues and the determination thereof, and which shall be dated and signed by each member of the Tribunal."

A look at the ruling of the Tribunal shows that it was neither dated nor signed by the members as provided for under the above quoted section. The section is couched in mandatory terms and failure of the members to date and sign it is a fatal mistake which cannot be excused.

6. The ex-parte applicants argue that some members of the Tribunal were not gazetted. I have looked at the Gazette Notice of 4/2/1994. The names of all the four members appear on the Gazette Notice. The only difference is the names of one of the members who in the proceedings is shown as Jolly J. M. Wekhui whereas in the Gazette notice, his name is shown as John Wekhui. It was upon the ex-parte applicants to show that the names do not refer to one and the same person. There is therefore no merit in this argument.

7. The advocate for the interested parties argued that if the ex-parte applicants were aggrieved with the verdict of the tribunal, they should have moved against it in the manner provided and within the time allowed. The ex-parte applicants opted to pursue the Judicial review way. The applicants obtained leave to file for Judicial review within the six months required under order 53 of the Civil Procedure Rules. The main motion was filed within the time given by the court. I therefore do not find any merit in the argument.

8. As the Tribunal Judgement was not dated or signed as required, I find that the same was a nullity ab initio. The same as well as the decision of the court adopting it as a judgement of the court are hereby removed into this court and accordingly quashed. The ex- parte applicants shall have costs of this application.

It is so ordered.

Dated, signed and delivered at Kitale on this 19th day of February, 2015.

E. OBAGA

JUDGE

In the presence of ex-parte applicants and interested parties. Court Clerk – Kassachoon.

E. OBAGA

JUDGE

19/2/2015