



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT EMBU
JR MISC E.L.C. 5 OF 2014
FORMERLY KERUGOYA JR MISC C.A. NO. 15 OF 2014
IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW FOR ORDERS OF
PROHIBITION

AND

IN THE MATTER OF AN APPEAL TO THE MINISTER LAND APPEAL CASE NUMBER 149
OF 1996 MUNYI MBITI

AGAINST 16 CLANS

AND IN THE MATTER OF MBEERE/KIRIMA LAND ADJUDICATION SECTION

AND

IN THE MATTER OF LAND PARCELS/TITLES/NUMBER

MBEERE/KIRIMA/2244/2968 AND 2244/4090

GODFREY MUNENE (Representing Munyi Mbiti
(Deceased) and others.....PLAINTIFF

VERSUS

THE HON. ATTORNEY GENERAL1st RESPONDENT

MINISTER FOR LANDS.....2nd RESPONDENT

THE COMMISSIONER OF LANDS..... 3rd RESPONDENT

THE MBEERE DISTRICT ADJUDICATION OFFICER..... 4th RESPONDENT

THE LAND REGISTRAR MBEERE DISTRICT..... 5th RESPONDENT

AND

NELSON RUNJI NJIRA.....INTERESTED PARTY

RULING

1. I have perused the record of appeal and I find that the proceedings and decision of the Land Adjudication Officer are not included in this record.
2. The proceedings and the decision of the Land Adjudication Officer are important because they gave rise to the *appeal case number 149/1996*, between *Munyi Mbiti v 16 Clans* which in turn forms the basis of the judicial review proceedings in *case number 12 of 2007*, between *Munyi Mbiti v District Commissioner*
3. In the judicial review, *case number 12 of 2007* between *Munyi Mbiti v. District Commissioner, supra*, it is important to find out the status of the deceased plaintiff. His status is important to ascertain whether he appeared in his personal capacity or in his representative capacity on behalf of the Ngitu clan. This has a bearing on the issues raised in the judicial review proceedings in the instant case, namely *res-judicata*, amongst other issues.
4. In the light of the foregoing issues, Counsel for the *ex-parte* applicant, is directed to file and serve a supplementary record which should include the proceedings and decision of the Land Adjudication Officer. There after, the court will be in a position to give further direction in the matter.

RULING DATED, SIGNED and DELIVERED in open court at **EMBU** this **23rd**day of**APRIL....2015**.

In the presence of Mr Kamunda for the *ex-parte* applicant and Ms Rose Migwi holding brief for Mr Okwaro for the interested party and in the absence of the respondents and their counsel.

Court clerk Mr Muriithi

J.M. BWONWONGA

JUDGE