



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERUGOYA

J.R MISC CIVIL APPLICATION NO. 4 OF 2014

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW FOR ORDERS OF
PROHIBITION AND CERTIORARI

AND

IN THE MATTER OF AN APPEAL TO THE MINISTER LANDAPPEAL CASE NUMBER 129 OF
1991

JOHN KARANI KIBERENGE (DECEASED)

REPRESENTED BY TIMOTHY MUGO KARANI APPELLANT

AGAINST

NGARI KITHAKA (DECEASED) RESPONDENT

AND

IN THE MATTER OF LAND COMMITTEE CASE NUMBER 33/74-75

JOHN KARANI KIBERENGE PLAINTIFF

AGAINST

NJAGI KITHAKADEFENDANT

AND

IN THE MATTER OF MUTITU LAND ADJUDICATION SECTION

NJAGI KITHAKA REPRESENTED BY STEPHEN MENYI KITHAKAAPPLICANT

VERSUS

MINISTER FOR LANDS RESPONDENT AND

THE LAND REGISTRAR MBEERE DISTRICT 1ST INTERESTED PARTY

JOHN KARANI KIBERENGE 2ND INTERESTED PARTY

RULING

By his Chamber Summons filed herein on 14th January 2014, the ex-parte applicant seeks leave to apply for an order of certiorari to quash the decision of the respondent who is the Minister of Lands in Appeal Case No. 129 of 1991 made on 31st July 2013 depriving him of his property without reasonable cause and without giving reasons for deviating from the earlier decision. The ex-parte applicant further seeks leave to apply for an order prohibiting the Land Registrar Mbeere District who is the 1st interested party herein from registering the disputed portions of land to the 2nd interested party and that such leave do operate as a stay of any such registration.

The application is supported by the ex-parte applicant's verifying affidavit in which he has deponed that the respondent in his ruling dated 31st July 2013 deprived him of his property without reasonable cause and without giving reasons for departing from the earlier decision made by director land adjudication. The respondent therefore acted in an un-fair and biased manner and the decision he made was ultra-vires.

I have considered the application, the submissions by Mr. Kamunda advocate, the verifying affidavit and the Statutory statement.

I am satisfied from the material placed before me that the ex-parte applicant has established sufficient reasons to warrant the granting of the orders sought in the Chamber Summons. I therefore grant the leave sought and direct that the said leave shall operate as a stay of the decision of the Land Registrar Mbeere District from registering the disputed portions of land to the 2nd interested party pending the hearing and determination of the substantive Notice of Motion which shall be filed within twenty one (21) days of the delivery of this ruling. I further direct that the said Notice of Motion be served upon **all** parties that may be affected by it within 14 days of being filed.

Costs in the cause.

B.N. OLAO

JUDGE

31ST JANUARY, 2014

31/01/2014

Coram

B.N. Olao – Judge

CC – Mwangi

Mr. Ngari for Mr. Kamunda for Applicant - present

Respondent - absent (Ex-parte)

COURT: Ruling delivered this 31st day of January 2014 in open Court

Mr. Ngari for Mr. Kamunda for the applicant present.