



**IN THE HIGH COURT AT NAIROBI**

**MILIMANI LAW COURTS**

**JUDICIAL REVIEW DIVISION**

**MISC. CIVL APPL. NO. 344 OF 2012**

**BETWEEN**

**REPUBLIC .....APPLICANT**

**AND**

**GITHURAI LAND DISPUTES TRIBUNAL.....1<sup>ST</sup> RESPONDENT**

**CHIEF MAGISTRATE THIKA ..... 2<sup>ND</sup> RESPONDENT**

**AND**

**EUNICE WAMBUI KANGETHE .....1<sup>ST</sup> INTERESTED PARTY**

**REBECCA WARINGA NJOROGE ..... 2<sup>ND</sup> INTERESTED PARTY**

***EX-PARTE***

**GITHUNGURI CONSTITUENCY RANCHING CO. LTD**

**RULING**

The Notice of Motion dated 17<sup>th</sup> September 2012 seeks an order of prohibition to prohibit the respondents from executing the decree obtained in the **Thika D.O Case No. 14 of 2011** and from continuing to hear or deal in any way with land parcel No. LR RUIRU KIU BLOCK 2(GITHUNGURI)/3874. The said decree arises from a decision of the Githurai land disputes Tribunal proceedings in **Githurai Land Case No. RUR/LDT/17/2010** which has not been challenged at all. The decision of the court in issuing a decree is merely ministerial for the purpose of enforcement. In the absence of a plea to quash the underlying decision, the order of prohibition cannot lie as there is nothing wrong the subordinate court has done. In the circumstances, the Notice of Motion dated 17<sup>th</sup> September 2012 is incompetent. It is struck out with costs to the interested parties.

**DATED and DELIVERED at NAIROBI this 22<sup>nd</sup> day of January 2014**

**D.S. MAJANJA**

**JUDGE**