



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KERUGOYA**

**JUDICIAL REVIEW APPLICATION NO. 34 OF 2013**

**IN THE MATTER OF JUDICIAL REVIEW APPLICATION FOR LEAVE TO APPLY FOR AN  
ORDER OF CERTIORARI**

**AND**

**IN THE MATTER OF THE ADJUDICATION ACT CAP 284 LAWS OF KENYA**

**AND**

**IN THE MATTER OF THE DECISION BY J.K. CHELIMO DISTRICT  
COMMISSIONER, MBEERE NORTH DISTRICT IN ADJUDICATION APPEAL NO. 299 OF  
2011**

**GODFREY JOSEPH NYAGA NJUKI represented by**

**AMBROSE NJIRU NTHIGA .....APPELLANT**

**VERSUS**

**MWANIKI MWIGE represented by EUTON NJUKI MAKUNGO.....RESPONDENT**

**AND**

**IN THE MATTER OF JUDICIAL REVIEW**

**REPUBLIC ..... APPLICANT**

**VERSUS**

**MINISTER FOR LANDS AND SETTLEMENT .....1<sup>ST</sup> RESPONDENT**

**J.K. CHELIMO DISTRICT**

**COMMISSIONER, MBEERE NORTH DISTRICT.....2<sup>ND</sup> RESPONDENT**

**THE ATTORNEY GENERAL ..... 3<sup>RD</sup> RESPONDENT**

**AMBROSE NJIRU NTHIGA ..... INTERESTED PARTY**

**AND**

**RULING**

By his Chamber Summons dated 24<sup>th</sup> May 2013 and filed in this Court on the same day, the ex-parte applicant EVTON NJUKI MUKUNGO seeks the following orders:-

1. *That this Court do grant him leave to apply for an order of certiorari to call into this Court and quash the decision of the District Commissioner Mbeere North District dated 7<sup>th</sup> December 2012 allowing appeal to the Minister in Land Appeal Case No. 299 of 2011.*
2. *That the leave so granted do operate as a stay of execution of the decision of the District Commissioner Mbeere North District*
3. *That costs be provided for*

The said application is supported by the applicant's affidavit and Statutory statement filed herein.

I have considered the affidavit in support of the application together with the other documents herein and the submissions of Ms Njeru Advocate for the applicant.

What comes out is that the Minister's appeal was filed out of time and also that the Minister through the District Commissioner purported to cancel a title deed in respect of land parcel No. MBEERE/KIRIMA/2604 when he had no powers to do so.

On the face of it, I am satisfied that the applicant has demonstrated sufficient grounds for the orders sought in this Chamber Summons. I accordingly allow the same and grant the leave sought. In accordance with ***Order 53 Rule 3 of the Civil Procedure Rules***, I direct that the applicant do file the Notice of Motion within 21 days from the date of this ruling and serve the same upon the respondents and all other such persons as are affected by it within 14 days of filing and thereafter file an affidavit indicating who has been served. The leave granted shall also operate as a stay of execution of the decision of the District Commissioner Mbeere North District.

Costs shall be in the cause.

**B.N. OLAO**

**JUDGE**

**24<sup>TH</sup> FEBRUARY, 2014**

**24/2/2014**

**Coram**

**B.N. Olao – Judge**

**CC – Mwangi**

**Mr. Njoroge for Njeru for Petitioner – present**

**Respondent - absent (Ex-parte)**

**COURT: Ruling delivered this 24<sup>th</sup> day of February 2014 in open Court.**

**Mr. Njoroge for Njeru for applicant present.**

**B.N. OLAO**

**JUDGE**

**24<sup>TH</sup> FEBRUARY, 2014**