



**REPUBLIC OF KENYA**

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

**JUDICIAL REVIEW NO. 92 OF 2011**

**IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW IN THE NATURE OF CERTIORARI BY EX-PARTE APPLICANT MARY MUTHONI M'MBUI TO CALL AND QUASH THE DECISION OF THE CHAIRMAN OF IMENTI NORTH DISTRICT LAND DISPUTES TRIBUNAL ON LDT NO. 30 OF 2011 NOW MERU CM LDT NO. 42 OF 2011.**

**AND**

**IN THE MATTER OF LAND PARCEL NO. NYAKI/KITHOKA/2999 REGISTERED UNDER CAP 30 OF THE REGISTERED LAND ACT.**

**REPUBLIC.....APPLICANT**

**AND**

**THE CHAIRMAN IMENTI NORTH DISTRICT LAND**

**DISPUTES TRIBUNAL.....RESPONDENT**

**DAVID MUTHENGI MURIUNGI...INTERESTED PARTY**

**VS**

**MARY MUTHONI M'MBUI.....Ex-Parte APPLICANT**

**RULING**

This application is dated 5th August, 2013. It seeks order that;-

- 1. The Honourable Court do visit the locus in quo (scene visit) of land parcel No. NYAKI/KITHOKA/2999 THE SUBJECT MATTER IN THIS CASE BEFORE THE DATES OF HIGHLIGHTING THE SUBMISSIONS.***
- 2. Costs be provided for by the respondent.***

It is supported by the affidavit of the applicant's advocate sworn on 5th August 2013.

The application is opposed by the interested party who has submitted that the parties had filed written submissions and no one objected. The interested party argued that in the Judicial Review application which has spawned this application, the issue is not who is in occupation of the land but whether the tribunal had jurisdiction to hear and determine the dispute and if the tribunal had acted in excess of its jurisdiction.

I have looked at the main motion by the applicant dated 16th January, 2013. The main prayer is for an order of certiorari and the main ground is that the tribunal lacked jurisdiction.

I find that scene visit to the suit land is not merited.

On 17/7/2014, Mr Kirima offered to provide the Court with an authority to support his application regarding the issue of whether a party can file an interlocutory application after the parties have closed the hearing of a suit and final submissions have been filed. He was allowed 30 days to file any authority he had and apposite submissions.

When the matter came up for direction on 2/10/2014 he had not done so. Instead, through Mr Kiogora, advocate, he sought more time.

I have already found that the prayers in this application are not merited. I dismiss it with costs to the respondent and the interested party.

It is so ordered.

**Delivered in open court at Meru this 30th day of October, 2014 in the presence of;**

Cc. Lilian/Daniel

Kirima for the Applicant

Kieti for Respondent.

Kieti holding brief for Baithambu for the interested party.

**P. M. NJOROGE**

**JUDGE**