



REPUBLIC OF KENYA

High Court at Embu

Miscellaneous Application 28 of 2012

NGIRI IKUA .....APPLICANT

VERSUS

MINISTER FOR LANDS.....RESPONDENT

DOMINIC MIKE KAMINJA.....1ST INTERESTED PARTY

THE LAND REGISTRAR MBEERE DISTRICT.....2ND INTERESTED PARTY

RULING

This is the Notice of Motion dated 16/10/2012 where the exparte applicant is seeking the following orders:-

1. *An order of certiorari be issued bringing into this Court and quashing the decision of the Respondent dated 30th August 2011 in Appeal No. 35 of 1989.*
2. *An order of certiorari be issued bringing into this Court and quashing the decision of the Respondent dated 30th August 2011 in Appeal No. 35 of 19890 depriving the applicant of his property without a reasonable cause.*
3. *An order of prohibition, prohibiting the Land Registrar Mbeere District from registering the disputed portions of land to wit; 363, 380, 381, 410, 279, 382, 383, 378, 377 & 364 to the interested party herein.*

The application is supported by the grounds set out in the statutory statement dated 27/2/2012 and verifying affidavit of Augustino Ndaru Muitanjau. The main ground being that the Respondent in Appeal No. 35/89 interfered with the decision of the District Commissioner dated 21/8/87 in objection No. 430/1980. And that he gave no reason for such interference.

As a result of the interference he allocated portions of land viz – 363, 364, 377 – 383, 410 to the interested party. These actions of the Respondent were ultra vires, unfair unreasonable biased and illegal. The Attorney General on behalf of the Respondent and 2nd interested party i.e. Minister for Lands and Land Registrar Mbeere District respectively submitted that the actions of the Respondent was ultra vires.

The reason being that there was interference with Title and that the purported revocation of the exparte party is only a preserve of the High Court. No Government agent has power to revoke title as this falls within the jurisdiction of the Court.

The Attorney General has put it so well in the submissions to the Court. The Respondent acted outside his mandate. I allow the exparte applicant's Notice of Motion dated 16/10/2012. Each party to bear his own costs.

**DELIVERED, DATED AND SIGNED AT EMBU THIS 17TH DAY OF APRIL 2013.**

**H.I. ONG'UDI**

**J U D G E**

**In the presence of:-**

**Mr. Kamunda for Applicant**

**Njue CC**