



IN HIGH COURT OF KENYA AT BUSIA.

REVIEW CASE NO. 9 OF 2011.

IN THE MATTER OF THE REGISTERED LAND ACT.

AND

IN THE MATTER OF AND APPLICATION FOR JUDICIAL REVIEW

AND

IN THE MATTER OF LR NO. SOUTH TESO/ANGOROMOR/6168 OVER BUSIA SPM CC.

LAND CASE NO. 76 OF 2010.

BETWEEN

REPUBLICAPPLICANT

V E R S U S

CHAKOL LAND DISPUTES TRIBUNAL.....RESPONDENT

AND

LINET OOKO OGOLLA.....INTERESTED PARTY

AND

IN THE MATTER OF JOSEPH OMONDI ONYANGO.....APPLICANT.

R U L I N G.

JOSEPH OMONDI ONYANGO, through his advocates M/S. Ashioya & company advocates filed a notice of motion dated 5th April, 2011, for an order of certiorari against the decision of Chakol Land Disputes Tribunal over land parcel South Teso/Angoromo/6168 and costs. The interested party, Linet Ooko Ogolla through her advocates M/S. Wanyama & company advocates opposed the application and filed a replying affidavit sworn on 12th October, 2011. Both counsel filed written submissions. In the submissions filed by the interested party's advocate dated 22nd April, 2013, the interested party concedes to issuance of the orders of certiorari. She only submitted on the issue of costs stating that each party should meet their own costs so as to promote reconciliation among the parties who are close relatives.

The court has carefully considered the submissions by counsel and noted that the interested party has agreed that the orders of certiorari be issued. This is an admission that the applicant's application has

merit and ordinarily the successful party in a civil case is entitled to costs. However, in this particular instance, the court has noted the nature of the claim the interested party had taken to the tribunal which appears to be based on beneficial interest. It is likely that the interested party may still pursue her claim in a new matter even after the orders in this case are issued. With this in mind and considering the relationship the two parties have, I find this is an appropriate case where each party takes care of their own costs.

It is therefore ordered as follows:

- a. That an order of certiorari do and is hereby issued calling into this court and quashing the decision of Chakol Land Dispute Tribunal on Land parcel South Teso/Angoromo/6168 dated 7th July, 2010 and adopted by the Senior Principal Magistrate's court in Land case No.76 of 2010 on 23rd September, 2010.
- b. Each party bears their own cost.

It is so ordered.

S. M. KIBUNJA.

JUDGE.

30TH MAY, 2013.