



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT EMBU**

**JUDICIAL REVIEW NO. 1 OF 2007**

**IN THE MATTER OF: REGISTERED LAND ACT CAP 300 LAWS OF KENYA**

**AND**

**IN THE MATTER OF: LAND CONSOLIDATION/ADJUDICATION ACT**

**IN THE MATTER OF: MWEA/CHUMBIRI/BLOCK 52-55 KIRINYAGA**

**IN THE MATTER OF: REGISTERED AND ISSUANCE OF TITLE DEEDS**

**BETWEEN**

**SAMUEL MBIRI NGUU &**

**19 OTHERS.....APPLICANTS**

**VERSUS**

**HON. ATTORNEY GENERAL.....1<sup>ST</sup> RESPONDENT**

**HON. MINISTER OF LANDS.....2<sup>ND</sup> RESPONDENT**

**RULING**

This is the application dated 13th August 2012 seeking orders of committal of E.N. Ogego the Director Land Adjudication for contempt of Court. Ms. E.N. Ogego is said to have refused to demarcate, register and issue title deeds in respect of **LR. MWEA/CHUMBIRI/BLOCK/52-55** Kerugoya to the applicants as ordered by the court.

The application is supported by the affidavit of the 1st applicant. Ms. Ogega has filed a replying affidavit in which she disputes having been served with any order requiring her to do a certain act which she has failed to do. Secondly she states that the land in issue is non existent as it cannot be identified.

She also filed a supplementary affidavit after a site visit with the parties herein on 23/11/12. She states that this visit established that the suit land is not available for adjudication as its already reserved for the National Irrigation Board.

Engineer Daniel Barasa of National Irrigation Board in his affidavit confirmed that the suit land has

been reserved for National Irrigation Board. The record shows that there has been a lot of communication between the applicants and the Ministry of Lands officers (KM1-8).

In this communication the Ministry of Lands has kept on changing goal posts over the matter Ms. Ogega included. The letters KM2, KM3, & KM6 have been written by her. This blame shifting will not assist anybody. The genesis of this matter is that the applicant with leave of the court filed a notice of motion dated 20/2/2008 for an order of mandamus against the Minister for Lands for issuance of title deeds to the applicants.

The application was properly served. On 12/2/2008 a state counsel Mr. Cherogony appeared on behalf of the Attorney General and applied for leave to file a replying affidavit to the application. Leave was granted for him to file and serve the replying affidavit within 30 days. He did not. On 29/9/2008 when Hon. Justice Karanja was delivering the Ruling there had been no replying affidavit filed. She granted the orders sought. These were the orders.

1. ***The Hon. Court ordered the Hon. Minister for Lands by himself or agents to complete the consolidation, registration and issuance of the title deeds on the suit land namely LR. MWEA/CHIMBIRI/BLOCK 52-55 in Kirinyaga.***
2. ***Prohibition to issue restraining the Minister for Lands from alienating, transferring, disposing etc of th suit land.***

From the replying affidavit herein Ms. E. Ogega now states that the land is a reserve of the National Irrigation Board. She is the same one who has written letters showing that land was registered under Cap 300 (29/8/2005). And on 25/10/2005 she said the land is not adjudicated.

The Ministry of Lands under which Ms. Ogega serves have failed to address this issue and this court on the plight of the applicants. The Attorney General in 2008/2009 was given an opportunity to address this issue and it did not. It can not therefore come here requesting that National Irrigation Board be enjoined as interested parties in a matter that has already been decided on. Ms. E. Ogega claims she has never been served with any order from this court over this matter. From her replying affidavit and supplementary affidavit it is clear that she is fully aware of this matter.

I am therefore giving her 45 days to act on the directions in the order of this Court dated 29/9/2008. If it is true that the land has been given to National Irrigation Board, the only logical thing to do would be to compensate the parties in accordance with the law. She should understand the order to mean its the Minister for Lands or the agents or assignees who should execute it. She is the one of the assignees and so must act as that is her docket.

Ms. E. Ogega to personally appear before this court on 20/8/2013 to confirm compliance.

**DELIVERED, DATED AND SIGNED AT EMBU THIS 25TH DAY OF JUNE 2013.**

**H.I. ONG'UDI**

**J U D G E**

**In the presence of:-**

**N/A for or by the parties**

**Njue CC**