



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT BUNGOMA
HC MISC. APPL. NO. 123 OF 2011

IN THE MATTER OF :

**AN APPLICATION BY JULIUS WEKULO AND VINCENT WAFULA FOR LEAVE TO APPLY
FOR ORDERS OF JUDICIAL REVIEW.**

IN THE MATTER OF:

THE LAND DISPUTES TRIBUNAL ACT NO. 18 OF 1990

BETWEEN

REPUBLIC..... APPLICANT

VERSUS

THE CHAIRMAN, WESTERN PROVINCIAL LAND DISPUTES TRIBUNAL.....RESPONDENT

EXPARTE

JULIUS WEKULO.

VINCENT WAFULA EXPARTE APPLICANTS

VERSUS

TECLA CHEMWA

TERESA MAKOKHAINTERESTED PARTIES

RULING

The exparte applicants have moved this court under section 3, 3A and 80 of the Civil Procedure Act and Order 45 (1) and (2) of the Civil Procedure Rules seeking for;

(a). The honourable court be pleased to set aside, review and/or discharge the orders made on 14th

March 2012.

The application is premised on the ground that there is an error apparent on the face of the record and several other grounds on the face of the application. The application is also supported by the affidavit of Julius Wekulo sworn on the 13th June 2012.

The summary of the order sought to be reviewed is contained in the annexed ruling of Justice A. Muchelule. The judge dismissed the application for leave to apply for Judicial review orders on the basis that the order sought to be quashed was over 6 months old.

The decision of the district tribunal was adopted on 10th May 2007 while the award of the provincial tribunal was adopted on 18th August 2011. In the application for leave to apply for orders of certiorari, the applicant sought to quash the decision of the Kakamega provincial Land Disputes Tribunal only.

In this event then the application was made within the six (6) months window as required by order 53 of the Civil Procedure Rules. It is therefore clear there was an error apparent on the face of the record in terms of computation of the time.

However if the leave was to challenge the decision of the District Tribunal then it is without time contrary to the law. The interested party's submissions is based on the award of the District Land Disputes Tribunal which is not being challenged by the exparte applicant.

For the reasons given above, I agree to review the orders of the learned Justice A. Muchelule and set aside the order dismissing the application for leave to apply for orders certiorari. In place I grant the applicant leave to commence judicial review proceedings. The applicant to file substantive motion within 21 days from today. The leave do operate as stay. Each party to bear its costs.

RULING SIGNED, DELIVERED AND READ in open court this 12th day of June 2013.

A. OMOLLO

JUDGE.