



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU J.R NO. 73 OF 2011 (O.S)

**ISAIAH KABERIA M'MUNGANIAAPPLICANT/
PLAINTIFF**

VS

**MINISTRY OF LANDS SETTLEMENT
DISTRICT**

**COMMISSIONER IGEMBE SOUTH DISTRICT1ST
RESPONDENT/DEFENDANT**

**ATTORNEY GENERAL.....2ND
RESPONDENT/DEFENDANT**

**JACOB KAIBUNGA KIUNGA.....INTERESTED
PARTY**

R U L I N G

The application herein is dated 19th October, 2011. it seeks orders that:

- 1. That an order of certiorari do issue to bring into the High Court for purpose of being Quashed the proceedings and the award of the 1st and the 2nd respondents dated 30/8/2011 in appeal No. 103 of 2011 in relation to Parcel NO. KIENGU/KANJOO/3644.**
- 2. That an order of prohibition be issued to the exparte applicant against the 1st and 2nd respondents and the interested party to prohibit them from any further dealings with the exparte applicant's interest in Land Parcel NO. KIENGU/KANJOO/3644.**
- 3. That the Honourable court be pleased to direct that the costs for and incidental to this application be borne by the interested party.**

On 19/6/13, Mr Ondieki, the advocate for the applicant's prayed that the application be allowed because despite the fact that all the parties including the interested party had been properly served, the Interested Party was not in Court. He opined that perhaps the Interested Party was not interested in defending the application.

I have considered all the circumstances germane to the oral application made by Mr Odieki for the exparte applicant. I will, however, not allow the application for the following reasons;

- 1. When the oral application was made it was during a mention and not a hearing session.**
- 2. Mr Kieti for the respondent had indicated, on the same day, that there was an attempt in the offing to have the matter settled out of court.**

In the circumstances, I disallow the oral application.

Delivered in open court at Meru this 2nd day of August 2013

in the presence of: Court clerk Daniel/Mwanjaru

Nyenyire holding brief for Odieki for Exparte applicant.

Kieti present for respondent.

P. M. NJOROGE

JUDGE