

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

CIVIL APPEAL NO. 58 OF 2008

JONATHAN ROVI LOFIA APPELLANT

VERSUS

MATHIAS MAKOKHA MUNYANYA RESPONDENT

R U L I N G

Judgement in this matter was delivered on 24th November 2011 by Thurania, J. on behalf of Lenaola, J. who had written the same. In the judgment, the judge, *inter alia*, ordered as follows –

“I will remit the same (appeal to the Appeals Committee) back to the Chairperson of the Committee, to constitute a different panel of the members to hear and resolve the disputed issues.”

Before the above order could be carried out, the Land Disputes Tribunals Act No. 18 of 1990 was repealed by the Environment and Land Court Act No. 19 of 2011. As a consequence the appellant Jonathan Rovi Kofia has filed this application dated 2nd March 2012 seeking the following orders.

1. That this Honourable court may be pleased to review the judgment delivered on 24th November 2011 and rescind the order referring this matter to the Chairperson, Western Provincial Land Disputes Appeals Committee to hear and resolve the disputed issues.
2. That this court do finalise the matter itself.
3. Costs of the application be provided for.

Since the law that created the Provincial Appeals Committee was repealed, that Committee does not exist anymore. In terms of the new law, the matter has to be dealt with by the Environment and Land Court or a magistrate’s court with jurisdiction on land matters.

I find merits in the application and allow the same. I grant prayer 1. I order that the matter be heard by the Environment and Land Court. The appellant’s/applicant’s counsel will place the matter for mentioned before that court on an appropriate date, for directions and further progress.

Dated and delivered at Kakamega this 28th day of November, 2013

George Dulu

J U D G E