

REPUBLIC OF KENYA

High Court at Machakos

Civil Case 209 of 2008

1. WAIU NZALU

2. MUTULU NZALU PLAINTIFFS/APPLICANTS

VERSUS

1. JAMES NGOMO MBWIKA

2. MAKUENI DISTRICT LAND

3. DISPUTES TRIBUNAL DEFENDANTS/RESPONDENTS

R U L I N G

By a **Notice of Motion** dated 17th August 2012, this court has been requested to enter judgment against the 2nd defendant the **Makueni Land Disputes Tribunal** in favour of the plaintiff.

I will not grant such leave to enter judgment. The first reason is that the **Land Disputes Tribunal Act** was repealed. The effect of the repeal is that there is no **Land Disputes Tribunal** in existence.

Secondly, in my view, under **Order 10 rule 4** of the **Civil Procedure Rules**, judgment before tendering evidence in default of entering appearance, can only be granted by the court for liquidated demands, not on land or other claims. This is a claim on land. It is not a claim for a liquidated amount. Therefore the provisions for entry of judgment cited are not applicable.

I find no merits in the application, and dismiss the same. I make no order as to costs.

Dated and delivered at Machakos this 5th day of **December** 2012.

.....
George Dulu
Judge

In the presence of:

Mr Kasyoka holding brief for Musyoka Makau for Plaintiff/Applicant

N/A for Defendants
Mutinda – Court clerk