



*certiorari* to remove into this Court for quashing the judgment dated 20/7/2011 delivered by the 2<sup>nd</sup> Respondent, the Senior Principal Magistrate at Narok in **Misc. land case No. 13 of 2010** pursuant to the award of the 1<sup>st</sup> Respondent, the Olokurto Land Disputes Tribunal dated 10<sup>th</sup> April 2010.

The applicants also seek leave to apply for an order of Prohibition to prohibit the 3<sup>rd</sup> and 4<sup>th</sup> Respondents from implementing or enforcing the judgment and the award sought to be quashed.

The applicants also seek an order of stay.

I have perused the application and the Statement of facts and the Verifying affidavit. I have also duly considered the submissions made by Mr. W.R. Kiprono, the learned Counsel for the Applicants.

I am satisfied that the applicants have established that there are sufficient grounds to warrant the grant of the leave sought. The applicants have shown that the judgment of the 2<sup>nd</sup> Respondent was entered on the basis of an award of the 1<sup>st</sup> Respondent and that the said award was made by the 1<sup>st</sup> Respondent either in excess of its jurisdiction or without jurisdiction.

Under **Section 9 of the Law Reform Act, Cap 26**, the Applicants were enjoined to seek leave, as they have done, within six months *after* the date of the 2<sup>nd</sup> Respondent's judgment. Time under **Section 9 of the Law Reform Act** started to run on 21/7/2010. It seems to me that the applicants came to Court for leave in the nick of time. The six months period expired on 21/1/2011, or so it seems to me.

In the circumstances, I allow the applicants' Chamber Summons application dated 20/1/2011 and grant, pursuant to **Rule 1 of Order 53 of Civil Procedure Rules 2010**, leave to apply for the orders sought.

I order that the leave herein granted shall operate as a stay until the Notice of Motion to be filed as hereinafter directed is determined or until further orders of this court.

I direct that the Applicants shall file the Notice of Motion pursuant to **Rule 3 of Order 53 of the Civil Procedure Rules 2010**, within 21 days of today and shall within 21 days of filing serve the same on the Respondents named in the chamber summons for leave, and on all such persons as may be affected by it.

The Motion shall be filed in this file and shall be mentioned on 23/3/2011 at 9.00am in this Court.

The costs of the application for leave shall be costs in the cause.

**DATED at KERICHO** this 27<sup>th</sup> day of January 2011

**G.B.M KARIUKI, SC**

**RESIDENT JUDGE**

**COUNSEL APPEARING**

Mr. P. Kiprop, State Counsel, for the Republic  
Mr. W. R. Kiprono, Advocate, for the Accused  
Mr. R. Koech, Court clerk