



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KERICHO

CIVIL MISC. APPLICATION NO. 4 OF 2011(JR)

ELIZABETH MAINA.....APPLICANT
AND
PHILIP LANGAT.....1ST RESPONDENT
SIMION MARITIM.....2ND RESPONDENT
THE CHAIRMAN BELGUT LAND
DISPUTE TRIBUNAL..3RD RESPONDENT
THE CHIEF MAGISTRATE’S COURT
AT KERICHO.....4TH RESPONDENT

RULING

ELIZABETH MAINA, the Applicant herein, has sought in the *ex parte* Chamber Summons application dated 18th February, 2011 leave to apply for an *order of certiorari* to remove into this Court for quashing the undated decision made by Belgut Land Disputes Tribunal adopted as a judgment of the Court on 12/10/2010 by the 4th Respondent, the Chief Magistrate Court at Kericho in Misc. Application No. 91 of 2010.

I have considered the submissions made by Mr. J. K. Kirui, the learned Counsel for the applicant and I have also perused the Statement of facts and the Verifying affidavit filed pursuant to **Rule 1 (2) of Order 53** of the **Civil Procedure Rule 2010**. I am satisfied that the applicant has established sufficient grounds for the leave sought. I allow the application and hereby grant leave to the applicant to apply for an *order of certiorari* as prayed in the application.

In accordance with **Rule 3 (1) of Orders 53** of the **Civil Procedure Rules**, I direct that the applicant shall file the Notice of Motion within 21 days from the date hereof. I further direct pursuant to **Rule 3 (2)** of the said Order that the Applicant shall serve the Notice of Motion on the Respondents and all such persons as are affected by it within 14 days of filing.

The Notice of Motion shall be mentioned on 6/6/2011.

Seven days prior to 6/6/2011, the Applicant shall file an affidavit stating who has been served with the Motion and the date and places of service.

Pursuant to **Rule 1 (4) of Order 53** of the **Civil Procedure Rules 2010**, the leave herein granted shall operate as a stay of the proceedings in the Chief Magistrate Court in Misc. App. No. 91 of 2010 and any proceedings connected with the award of the 3rd Respondent.

The costs of this application shall be costs in the Notice of Motion.

DATED at **KERICHO** this 23rd Day of **FEBRUARY**, 2011

G B M KARIUKI, SC
RESIDENCE JUDGE

COUNSEL APPEARING

Mr. J. K. Kirui, Advocate, for the Applicant

Mr. R. Koech, Court clerk