



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT KERICHO

MISC. CIVIL APP. NO. 9 OF 2011 (JR)

GEOFFREY K. SAMOEI APPLICANT

VERSUS

THE CHAIRMAN, SIGOWET LAND
DISPUTES TRIBUNAL

.....1ST RESPONDENT

THE CHIEF MAGISTRATE'S COURT
KERICHO

.....2ND RESPONDENT

CLEOPHAS K. SAMOEI

.....3RD RESPONDENT

RULING

The Applicant, **Geoffrey K. Samoei**, has applied to this court under **Order 53, Rule 1** of the **Civil Procedure Rules 2010** for leave to apply for an order of certiorari to remove into this court for quashing the order dated 17th January, 2011 made by the 2nd Respondent herein, the Resident Magistrate at Kericho, in the Chief Magistrate's Court in Misc. Application No. 100 of 2010 following adoption of an award dated 24th November, 2010 made by the 1st Respondent.

I have considered the submissions made by **Mr. J.M. Motanya**, learned counsel for the Applicant. I have also perused the Verifying Affidavit and the Statement of Facts filed pursuant to **Rule 1(2) of Order 53** of the **Civil Procedure Rule 2010**. I am persuaded that there are sufficient grounds for granting the leave sought not least because the award made by the 1st Respondent which was adopted by the 2nd Respondent appears to have been made outside the plenitude of the powers conferred on the 1st Respondent by **section 3** of the **Land Disputes Tribunals Act, No. 18 of 1990**. Accordingly, I allow the application and grant to the Applicant the leave sought.

Pursuant to **Rule 3(1)** of the **Civil Procedure Rules 2010**, I direct that the Applicant shall file the Notice of Motion within twenty one(21) days from the date hereof. Such motion shall be served on the Respondents and on such persons as may be affected by it within fourteen (14) days of filing and shall be mentioned in this court on 6th June, 2011 at 9.00a.m.

The Applicant shall, not later than seven(7) days before 6th June, 2011, file in this court an affidavit giving the names of the person served with the Notice of Motion, the dates and times when and places where service has been effected.

Pursuant to **Rule 1(4)** of the **Civil Procedure Rules 2010**, I order that the leave herein granted shall operate as a stay until the Notice of Motion is determined or until further orders of this court.

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

DATED at **KERICHO** this 23rd day of February, 2011

G.B.M. KARIUKI, SC
RESIDENT JUDGE

COUNSEL APPEARING

Mr. J.M. Motanya Advocate for the Applicant
Court Clerk – Mr. Koech