



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT BUNGOMA**

**CIVIL SUIT NO.30 OF 2009**

**FRANCIS PEPELA**

**WANJALA.....APPLICANT**

**~VRS~**

**HEZRON WALUSUNA WANJALA .....1<sup>ST</sup>  
RESPONDENT**

**THE LAND REGISTRAR – BUNGOMA..... 2<sup>ND</sup>  
RESPONDENT**

**THE HON. ATTORNEY GENERAL.....3<sup>RD</sup>  
RESPONDENT**

**RULING**

The Plaintiff/Applicant Francis Pepela Wanjala sues the three Respondents for a declaration that land parcel BOKOLI/MISIKHU/1182 belongs to the Plaintiff and for cancellation of 1<sup>st</sup> Defendant's title to the land. The 1<sup>st</sup> Defendant denies the claim in his written statement of defence filed by Nyachiro & Co. Advocates on 26/06/2009. The 2<sup>nd</sup> and 3<sup>rd</sup> Respondents failed to enter appearance and filed defence.

In the application dated 16/09/2009, the Plaintiff seeks for leave under Order IX A Rules 5, 7 and 11 of the Civil Procedure Rules for entry of interlocutory judgment against the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents. The Plaintiff served the Permanent Secretary, Ministry of Lands with notice of intention to sue dated

28/01/2009. The 3<sup>rd</sup> Defendant was also duly served. This suit was filed on 22/04/2009. Service of the plaint and summons to enter appearance were served on the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents as shown by the affidavits of service sworn by Cleveland Mwebi dated 16/09/2009. This application was also served on the 3<sup>rd</sup> Respondent on the 05/07/2010 as shown by the affidavit sworn by Cleveland Mwebi on 12/10/2010 and copy of duly stamped hearing notice. The Respondents did not reply to the application. It is a requirement under Order IX A Rules 5, 7 and 11 that before interlocutory judgment is entered against the Government whose principal legal representative is the Attorney General, leave be obtained from court. This application is unopposed. All the requirements have been satisfied by the Applicant. I allow the application dated 16/09/2009 as prayed. In essence interlocutory judgment is hereby entered against the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents. The matter to be fixed for formal proof. Costs of this application to the Applicant in the cause.

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**F. N. MUCHEMI**

**JUDGE**

Ruling dated and delivered on the 10<sup>th</sup> day of March, 2011 in the presence of Mrs. Change for Mwebi for the Applicant.

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**F. N. MUCHEMI**

**JUDGE**