



**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**CIVIL APPEAL NO. 515 OF 2006**

**LUCIA NJOKI KAMAU.....APPELLANT**

**Versus**

**WAMBUI KAMAU.....RESPONDENT**

**JUDGEMENT**

The parties to this appeal had dispute over their respective shares in **Title No. Kiganjo/Mudoro/1767** (the suit land).

They took their dispute to Gatundu Land Disputes Tribunal (the Tribunal) which ordered that the Appellant and one David Mwangi should each take 0.5 of an acre and the Respondents should each take on acre. That award was adopted by the Senior Resident Magistrate's Court at Gatundu on 7<sup>th</sup> July 2005. According to the Appellant, the Respondents refused to cooperate promoting her to apply for an order that the Executive Officer of the court do execute all requisite Respondents. The court dismissed that application. Thereafter the Appellant applied for a review of the dismissal order but that application was also dismissed. This appeal is against the dismissal of the review application.

Faulting the trial court for dismissing her application, counsel for the Appellant submitted that the Respondents having not contested the Tribunal award and the same having been made a decree of the court, the trial court erred in dismissing both applications thereby thwarting the Appellant's right to reap the benefits of her decree.

For the Respondents it was submitted that the court was right in rejecting both applications as the Tribunal had no jurisdiction to deal with a dispute over ownership of the suit land.

Having considered these rival submissions, I agree with counsel for the Respondent that this appeal has no merit and should be dismissed for two reasons. One, the application, the dismissal of which is the subject of this appeal was premised on the ground that there was an error apparent on the face of the record. That error was not pointed out to the trial court nor has it been done in this appeal.

Secondly, although the trial court did not say so, Tribunal had no jurisdiction to entertain the ownership claim further more based on inheritance. Ownership claims and succession disputes are clearly matters outside the Land disputes Tribunals. In the circumstances the trial court was entitled to dismiss the review application.

Consequently I dismiss this appeal with costs.

**DATED and delivered this 9<sup>th</sup> day of March 2011.**

**D.K. MARAGA  
JUDGE**