



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KERICHO**  
**JUDICIAL REVIEW NO. 17 OF 2011**

SAWE ARAP MITEI ..... APPLICANT  
VERSUS  
SIONGIROI LAND DISPUTES TRIBUNAL.....1<sup>ST</sup> RESPONDENT  
PRINCIPAL MAGISTRATE, BOMET .....2<sup>ND</sup> RESPONDENT  
AND  
SOPHIA CHEPKIRUI MITEI .....INTERESTED PARTY

**RULING**

The Applicant, **Sawe Arap Mitei**, seeks in his *ex parte* Chamber Summons application leave to apply for an order of *Certiorari* to remove into this court for quashing the award dated 15<sup>th</sup> December, 2010 made by **Siongiroi Land Disputes Tribunal** and the judgment dated 2<sup>nd</sup> March, 2011 made by the Bomet Principal Magistrate in Land Case No. 2 of 2011.

**Mr. W. R. Kiprono**, learned counsel for the Applicant, urged the Court to grant the leave sought on the ground that the Siongiroi Land Disputes Tribunal acted beyond its power under **Section 3** of the **Land Disputes Tribunals Act No. 18 of 1980** and that the Bomet Principal Magistrate adopted as a judgment of the court an invalid award.

I have duly perused the verifying affidavit and the Statement of Facts filed contemporaneously with the application. I am satisfied that the Applicant has established sufficient grounds for the grant of the leave sought.

Accordingly, I allow pursuant to **Rule 1 (1) of Order 53** of the **Civil Procedure Rules (2010)** the application and grant leave to the Applicant to apply for an order of certiorari to remove into this court for quashing the decisions referred to in paragraph 1 of the Chamber Summons application dated 6<sup>th</sup> April, 2011.

I order pursuant to **Rule 1(4) of Order 53** of the **Civil Procedure Rules** that the leave herein granted shall operate as a stay of the award of Siongiroi Land Disputes Tribunal and the judgment of Bomet Principal Magistrate court in Land Case No. 2 of 2011 and proceedings related thereto until the Motion to be filed as hereunder directed is heard and determined or until further orders of this court. However, if Motion is not filed as directed, the stay herein ordered shall lapse after the expiry of the period within which the Motion is directed to be filed.

I direct that the Applicant shall within twenty one (21) days from the date hereof filed a Notice of Motion as required by **Rule 3(1) of Order 53** of the **Civil Procedure Rules** and shall serve the said Motion on the Respondent and all such persons who may be affected by it within fourteen (14) days of filing.

The Notice of Motion shall be mentioned on 7<sup>th</sup> July, 2011 at 9.00a.m. Seven days prior to the mention on 7<sup>th</sup> July, 2011, the Applicant shall file an affidavit pursuant to **Rule 3(3)** of **Order 53** of the **Civil Procedure Rules**.

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

**DATED** at **KERICHO** this 13<sup>th</sup> day of April, 2011

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

**COUNSEL APPEARING**

Mr. W.R. Kiprono Advocate for the Applicant

Mr. Koech - Court Clerk