



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**ELC. MISCELLANEOUS CASE NO. 55 OF 2011**

**IN THE MATTER OF AN APPLICATION BY HARRISON CHEGE MAINA AND SAMUEL  
KIMEMIA GITIRO FOR**

**LEAVE TO APPLY FOR JUDICIAL REVIEW ORDERS OF CERTIORARI AND  
PROHIBITION**

**AND**

**IN THE MATTER OF THE LAND DISPUTE TRIBUNAL ACT NUMBER 18 OF 1990**

**AND**

**IN THE MATTER OF THE LAND DISPUTE TRIBUNAL CASE NUMBER 50 OF 2008 AT THE  
THIKA CHIEF MAGISTRATE COURT**

**AND**

**IN THE MATTER OF THE RUIRU DIVISION LAND DISPUTES TRIBUNAL AND THE CHIEF  
MAGISTRATE COURT, THIKA**

**RULING**

The applicant's application dated 26<sup>th</sup> may, 2011 seeks, *inter alia*, leave to apply for an order of certiorari to bring to this court for purpose of quashing a decision by the Ruiru Division Land Disputes Tribunals dated 10<sup>th</sup> September, 2008 and confirmed by the Chief Magistrate's Court, Thika, on 5<sup>th</sup> January,

2009. The tribunal ordered cancellation of his title to a parcel of land known as RUIRU WEST BLOCK 1/37.

**Order 53 rule 2** of the **Civil Procedure Rules** is clear that:

**“Leave shall not be granted to apply for an order of certiorari to remove any judgment, order, decree, conviction or other proceedings for the purposes of its being quashed unless the application for leave is made not later than six (6) months after the date of the proceeding”.**

The period of six months is stipulated under **Section 9(3)** of the **Law Reform Act, Cap 26**. The court has no power to enlarge time even if the applicant became aware of the impugned decision after expiry of six months. See **AKO v SPECIAL DISTRICT COMMISSIONER KISUMU & ANOTHER [1989] KLR 16**.

Consequently, the application for leave is dismissed.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 30<sup>TH</sup> DAY OF MAY, 2011.**

**D. MUSINGA**

**JUDGE**