

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT EMBU

JUDICIAL REVIEW NO. 5 OF 2011

REPUBLIC.....APPLICANT

VERSUS

MWEA LAND DISPUTES TRIBUNAL.....1ST RESPONDENT
SENIOR RESIDENT MAGISTRATE WANGURU2ND RESPONDENT
NANCY MUTHONI MURURIA.....3RD RESPONDENT

SUSAN MWIHAKI NJAU.....EXPATE APPLICANT

R U L I N G

The Exparte Applicant seeks to be granted an order of Certiorari to remove into this court and quash the award of the 1st Respondent dated 12th November 2010 and adopted by the 2nd Respondent on 22nd November 2010. Before the 1st Respondent the 3rd Respondent successfully claimed 4 acres of land parcel No. **MWIRUA/KABIRIRI/1039** which was registered in the name of the Exparte Applicant. Subsequently, 2nd Respondent has adopted the award and will consequently be directing the sub-division of the suit land to enable the 3rd Respondent get the 4 acres.

The objective of an order of Certiorari is to quash a decision for lack or excess of jurisdiction. **(TIMOTHEO MAKENGE VS MANUNGA NGOCHI Civil Appeal No. 25 of 1978)**. It is now settled that under Section 3 (1) of the Land Dispute Act (Act No.18 of 1990), the Land Disputes Tribunal has no jurisdiction to adjudicate on ownership of registered land.**(REPUBLIC VS KAJIADO DISPUTES TRIBUNAL & OTHERS EXPARTE JOYCE WAMBUI & ANOTHER Nairobi High Court Misc. Appeal No. 689 of 2001)**. The land herein is registered under the Registered Land Act (Cap 300).

It is obvious that the 1st Respondent lacked jurisdiction to entertain this dispute in which the 3rd Respondent claimed a portion of the Exparte Applicant's land, and in awarding 4 acres to the 3rd Respondent the 1st Respondent acted *ultra vires* the Act. Consequently, the award of the Tribunal is hereby removed into this court and quashed. The costs of the application shall be borne by the Respondents severally and jointly.

DELIVERED, DATED AND SIGNED AT EMBU THIS 30TH DAY OF JUNE 2011.

A.O. MUCHELULE
JUDGE

In the presence of:-