



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

JUDICIAL REVIEW NO. 114 OF 2010

IN THE MATTER OF GEORGE MWANGI GITHENDU

AND

**IN THE MATTER OF AN APPLICATION BY GEORGE MWANGI GITHENDU FOR LEAVE
TO FILE A MOTION FOR**

JUDICIAL REVIEW FOR ORDERS OF CERTIORARI & PROHIBITION

AND

IN THE MATTER OF NAKURU LAND DISPUTES TRIBUNAL CASE NO. 22 OF 2010

REPUBLIC.....APPLICANT

VERSUS

**BAHATI LAND DISPUTES TRIBUNAL.....1ST
RESPONDENT**

**CHIEF MAGISTRATE, NAKURU LAW COURTS.....2ND
RESPONDENT**

EX-PARTE

GEORGE MWANGI

**GITHENDU.....SUBJECT
PETER MIRURU NG'ANG'A.....INTERESTED
PARTY**

RULING

George Mwangi Githendu the ex parte applicant, seeks orders of certiorari to quash to the decision of the Nakuru Land Disputes Tribunal made on 8th September 2010 determining and confirming ownership of the parcel of land known as Bahati/Kabatini Block 1/4220 to Peter Miruru Nganga (*the Interested Party*) and an order of prohibition against the Respondent.

Although Mr. Kimatta who appeared for the Interested Party argued strongly that the decision of the Tribunal was within its mandate, it was quite clear from Mr. Githui, counsel for the ex parte Applicant's arguments, that the Tribunal had no such jurisdiction. If there was any doubt as to the nature of the Ruling, it was this -

"RULING

Bahati Land Disputes Tribunal after perusing all the documents availed by the two parties and oral questions we arrived at the following ruling: -

- 1. The claimant MR PETER MIRURU NG'ANG'A is the sole owner OF A PLOT excised from Bahati/Kabatini Block 1/4230 of which they named PHASE III.**
- 2. The Bahati Land Disputes Tribunal requests the Hon. Court to compel the Chairman of KIUGU FIELD SCHOOL to issue Mr. PETER MIRURU NG'ANG'A a title deed to his plot in Phase II.**

CONSTANCE W. NJOROGE - Chairman - Signed
DAVASON K. GICHUKI - Member - Signed
EVANSON KANGWANA - Member - Signed"

The mandate of Land Tribunals is stated, and restricted by Section 3(1) of the Land Disputes Tribunal Act, 1990 (*No. 18 of 1990*) to decisions on -

- (a) determination on boundaries to land;**
- (b) claims to occupy land;**
- (c) trespass to land.**

The Ruling clearly refers to ownership of land and even directs the court to issue a mandatory injunction against the Chairman of a school called KIUGU FIELD SCHOOL. The Bahati Lands Disputes Tribunal not only had no jurisdiction to make such orders, but also exercise powers which it did not have or are not vested in it.

For those reasons, I allow the ex parte Applicant's Notice of Motion dated and filed on 10th December, 2010 in terms of the three prayers.

There shall be orders accordingly.

Dated, delivered and signed at Nakuru this 1st day of July 2011

M. J. ANYARA EMUKULE
JUDGE