



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT EMBU
MISC. CIVIL APP. NO. 52 OF 2011

IN THE MATTER OF LAND DISPUTES TRIBUNAL ACT NO. 18 OF 1990
AND
IN THE MATTER OF LAND DISPUTES TRIBUNAL GICHUGU DIVISION
KIRINYAGA WEST DISTRICT
WAGUAMA MUNYI – VERSUS- MUNYIRI MURIUKI
(LAND DISPUTE NO. 56 OF 2004)
AND

IN THE MATTER OF PROVINCIAL LAND APPEAL COMMITTEE NYERI
LAND DISPUTE TRIBUNAL CLAIM NO. KIRINYAGA 2/05
WAGUAMA MUNYI –VERSUS- MUNYI MURIUKI

IN THE MATTER OF SENIOR RESIDENT MAGISTRATE’S COURT , AWARD NO.55 OF
2004, KERUGOYA LAW COURTS
WAGUAMA MUNYIRI –VERSUS- MUNYIRI MURIUKI
AND

IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW
ORDERS OF CERTIORARI AND PROHIBITION

BETWEEN

REPUBLIC APPLICANT

VERSUS

THE SENIOR MAGISTRATE, KERUGOYA LAW COURTS.....RESPONDENT
WAGUAMA MUNYIRI INTERESTED PARTY
MUNYIRI MURIUKI EX-PARTE APPLICANT

R U L I N G

The *ex-parte* Applicant is the registered proprietor of BARAGWI/GUAMA/277 comprising of about 5 acres. He has two wives, one of whom is the Interested Party. The Interested Party went to Gichugu Land Disputes Tribunal seeking a portion of that land. On 9th of September 2004, the Tribunal reached a decision that the Ex-parte Applicant was to give each of his wives two acres and he be left with one acre. The matter went to the Province on appeal but the decision was upheld. On 29th March 2011, the SRM’s Court at Kerugoya adopted the award and subsequently issued a decree. This is what led to the *ex-parte* Applicant’s application before this court in which he sought leave to apply for the Judicial Review orders of Certiorari and Prohibition. The order of Certiorari targets the adoption of the award and the issuance of decree by the SRM’s court. In the statement of facts it is clear that it is the primary decision of the Tribunal that offended the *ex-parte* Applicant. It was stated that the Tribunal lacked jurisdiction under section 3(1) of the Land Disputes Tribunal Act (No.18 of 1990) to entertain a dispute regarding the ownership of a registered land or the sub-division of the same. The manner in which the

present application is couched is such that the prayer for leave or stay is not directed at the Tribunal.

Under Order 53 rule 2 of the Civil Procedure Rules an application for leave for Certiorari cannot be brought after 6 months from the date of the decision sought to be quashed. (***WILSON OSOLO –V- JOHN OJIAMBO OCHOLA & ANOTHER, CIVIL APPEAL NO. 6 OF 1995***). This court does not have the power to grant leave in the circumstances. The application is dismissed with costs.

DATED, SIGNED AND DELIVERED AT EMBU THIS 7th DAY OF SEPTEMBER 2011.

A.O. MUCHELULE
JUDGE