



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**JUDICIAL REVIEW DIVISION**

**JR.ELC MISCELLANEOUS CIVIL APPLICATION NO. 78 OF 2011**

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

AND

IN THE MATTER OF LAND DISPUTES TRIBUNALS ACT

BETWEEN

DAVID KIMANI KAROGO .....APPLICANT  
EX-PARTE

VERSUS

THIKA LAND DISPUTES TRIBUNAL .....1ST RESPONDENT

FLORENCE GATHONI NDUATI .....2ND RESPONDENT

RESIDENT MAGISTRATES COURT THIKA .....3RD RESPONDENT

**RULING**

This ruling is in respect of the application dated 13th September, 2011 brought to this court by way of Chamber Summons by David Kimani Karogo (the Applicant). At the hearing of the application interpartes on 9th November, 2011 I allowed John Munene Nduati the husband of Florence Gathoni Nduati ( the 2nd Respondent) to address the court on the issue of granting leave. Although he initially told the court that he was opposed to the application he eventually left the matter for the decision of the court.

I have looked at the application together with the supporting arguments. On the face of it I find that the Applicant has established that he has an arguable case. I therefore allow the application for leave to bring judicial review proceedings. I also find that this is a case where a stay of further action in respect of Thika Land Disputes Tribunal case No. 5/2006 should be granted. I therefore direct that the leave granted do operate as stay. The Applicant is directed to file and serve the main application within the next 15 days from the date of this ruling. The respondents will have 15 days from the date of service within which to file their replies. The costs will abide the outcome of the main application. This matter will be mentioned on 14th December, 2011 for further directions.

Dated, signed and delivered at Nairobi this 15th day of November, 2011.

**W. K KORIR**  
**JUDGE**