



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
JUDICIAL REVIEW APPLICATION NO.22 OF 2011

REPUBLIC.....APPLICANT

VERSUS

NAIVASHA LAND DISPUTES TRIBUNAL.....1ST RESPONDENT

NAIVASHA SENIOR PRINCIPAL MAGISTRATE'S COURT.....2ND RESPONDENT

AND

PETER KAARA MWAURA..... INTERESTED PARTY

EXPARTE

JOHN RICHARD GITHERE.....SUBJECT

RULING

The Notice of Motion is dated 16/03/2011 seeking for orders of certiorari to quash the award of Naivasha Land Disputes Tribunal made on **23/11/2010** awarding parcel No.153/10 No.Naivasha/Mwickingiri Block 4/3936 to Peter Kaara Mwaura and requiring the applicant to surrender his Title Deed in respect of the said parcel, for cancellation.

Further that the order do also apply to quash the order of the Principal Magistrate Court Naivasha in **Misc. Application No.35 of 2010** made on **25/11/2010** and its decree issued on **10/12/2010**, adopting the Award made by the Naivasha Tribunal.

The same was not contested, however applicant's counsel applied for costs as against the interested party saying costs follows the event – here since the applicant has succeeded then he is entitled to costs,

especially bearing in mind that it is the interested party who took the matter before the Land Disputes Tribunal and instituted proceedings without serving applicant.

The prayer for costs is opposed. Mr. Karanja for the interested party argues that his clients did not know about issues related to jurisdiction and ought to be excused from paying costs.

The application has been necessitated by actions instigated by the interested party. If the matter had proceeded to hearing, costs would have been awarded to the successful party. Applicant's counsel has had to prepare his application to attend court – and it is only fair that the costs be awarded to the applicant and I so direct.

Delivered and dated this **11th day of November, 2011** at **Nakuru**.

H.A. OMONDI
JUDGE

Mr. Mutonyi for Applicant

N/A for Attorney General

Interested Party present in person