



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KISUMU

Miscellaneous Application 1 of 2011

IN THE MATTER OF AN APPLICATION BY GILBERT OTOLO OCHICNEG AND JOHN HUMPHREYS OUMA FOR JUDICIAL REVIEW IN THE NATURE OF ORDERS OF CERTIORARI AND PROHIBITION

AND

IN THE MATTER OF LAND PARCEL NO. SIAYA / GOT AGULU / 378

REPUBLICAPPLICANT

VERSUS

THE SENIOR RESIDENT MAGISTRATE BONDO.....1ST RESPONDENT

THE CHAIRMAN BONDO DISTRICT

LAND DISPUTE TRIBUNAL.....2ND RESPONDENT

AND

MARGARET APIYO OMBERA.....INTERESTED PARTY

AND

GILBERT OTOLO OCHIENG.....EX-PARTE APPLICANT

JOHN HUMPHREYS OUMA.....EXPARTE APPLICANT

RULING

The application dated 29th June 2011 seeks the following orders:-

- (a) An order of certiorari removing into this Honourable court the orders issued by the 2nd respondent NO. BON/114/2010 Bondo Land Dispute Tribunal and adopted by the 1st respondent in Bondo SRMCC Mis Application number 24 of 2010 in respect of land parcel number SIAYA / GOT AGULU/378 for the purpose of the same being quashed.
- (b) An order of prohibition directed at the 1st and 2nd respondent restraining them by themselves,

agents, servants or otherwise howsoever from entering fresh or further proceedings in respect of land parcel number SIAYA / GOT AGULU / 378.

(c) Costs

The said application was not opposed. I have also perused the affidavit of service by one Kennedy O. Owiti dated 18th July 2011 and I am satisfied with the service.

The applicant now owns the land with one John Humphrey Ouma. He was never made a party. Further the tribunal lacked jurisdiction to entertain this claim as it involved land with a title. The tribunal mandate is well clear and doesn't included land with title as in the present case.

For these reason I allow the application as prayed. The applicant shall have the cost of the application. Orders accordingly.

Dated, signed and delivered at Kisumu this 11th day of November 2011.

**H. K. CHEMITEI
JUDGE**