



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT EMBU**

**JUDICIAL REVIEW NO. 16 OF 2010**

**REPUBLIC.....  
.....APPLICANT**

**VERSUS**

**CHAIRMAN EVURORE LAND DISPUTES TRIBUNAL .....1<sup>ST</sup>  
RESPONDENT  
PRINCIPAL MAGISTRATE SIAKAGO.....2<sup>ND</sup>  
RESPONDENT  
NAMU MURIGO.....  
.....INTERESTED PARTY  
NYAGA CINGANO.....EX-PARTE  
APPLICANT**

**RULING**

This is the Exparte Applicant’s Notice of Motion dated 18/5/2010 under Order 53 Rule 3(1) Civil Procedure Rule and Section 8 and 9 Law Reform Act. It’s for orders of:-

- 1. *Certiorari quashing the orders made by the 1<sup>st</sup> Respondent on 5/10/2009 in Tribunal Case No. 320/2009 and adopted as the Judgment of the Principal Magistrate’s Court Siakago on 11/3/2010.***
- 2. *Prohibition order to restrain the Respondents whether by themselves or through their agents or servants or any of them from executing the award made by the Land Disputes Tribunal in Case No. 320 of 2009 and adopted as a Judgment of the Principal Magistrate’s Court Siakago on 11/3/2010.***

The Applicants’ contention is whether the Evurore Land Disputes Tribunal had jurisdiction to deal with his land EMBU/IRIAITUNE/1678 which is registered under the Registered Land Act. In Land Disputes Tribunal Case No. 320/09 at Evurore, the Tribunal made the following orders:-

- 1. *The parcel No. 1678 be transferred to one Namu Murigo as a trustee of Ngugi Clan.***
- 2. *The parcel to be thereafter subdivide to members of Ngugi Clan of which Nyaga Cingano belongs.***

I have keenly noted with great concern that the Evurore Land Dispute’s Tribunal also heard case No. 404/09 involving the same parcel and same parties within a period of 3 weeks and delivering awards.

Surprisingly in their case No. 404/09 they said the land should revert back to the clan under the chairmanship of IRERI NDUMO and thereafter the same is divided among the Ngugi Clan members. In

this one it actually transferred the lands to NAMU MURIGO. I am surprised the Principal Magistrate Siakago did not take note of these double standards by the Tribunal and those who filed the matter before the Tribunal.

The Tribunal is formed under the Land Disputes Act No. 18/90 which confers jurisdiction to it. The jurisdiction to transfer title, cancel title deeds and even deal with determination of interest in land is not part of the Tribunal's jurisdiction. See the case of ***THE MERU CENTRAL DISTRICT LAND DISPUTES TRIBUNAL, MISC. CIVIL APPLICATION NO. 51 OF 2005 BY JUSTICE KASANGO MARY.***

The Evurore Land Disputes Tribunal went beyond its jurisdiction doing what was *ultra vires* the Act. It cannot be allowed to stand. I find for the Applicant and make the following orders.

- 1. This court calls back the decision of the Evurore Land Disputes Tribunal Case No. 320/2009 and read in court before the Principal Magistrate Siakago as LDT No. 11/09 and quashes that decision.***
- 2. The Respondents are prohibited from executing the award in Tribunal Case No. 320/2009 and the decree in Siakago Principal Magistrate' Court No. 11/2009.***
- 3. There shall be no order as to costs.***

**DELIVERED, SIGNED AND DATED AT EMBU THIS 2<sup>nd</sup> DAY OF NOVEMBER 2011.**

**H. I. ONG'UDI  
JUDGE**