



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT EMBU

Miscellaneous Application 56 of 2008

**IN THE MATTER OF AN APPLICATION TO APPLY FOR AN ORDER OF CERTIORARI
AND**

**IN THE MATTER OF DECISION BY THE CHAIRMAN EMBU DISTRICT LAND DISPUTE
TRIBUNAL NO. 120 OF 2007 AWARD NO. 24 OF 2008**

AND

IN THE MATTER OF JUDICIAL REVIEW

AND

IN THE MATTER OF THE REPUBLIC

THE CHAIRMAN EMBU DISTRICT LDT1ST APPLICANT

BENSON KARIUKI MURATHI NOW DECEASED

LEONARD MWANGI MURIUKIINTENDED 2ND RESPONDENT

JOHN C. MURATHI MURIITHI APPLICANT

R U L I N G

This is the Notice of Motion dated 12/2/2009 brought under Order 53 Civil Procedure Rules and section 8 and 9 of the Law Reform Act. It's for Orders of Certiorari to remove into the High Court for purposes of its being quashed. The Order by Embu District Land Disputes Tribunal No.120/07 dated 21/5/2008 and Award No.24/08 read on 24/11/2008.

The award gave orders for sub-division of the Applicant's land No.GATURI/NEMBURE/9439. It's the Applicant's submission that the Tribunal lacked jurisdiction

The Application is supported by the affidavit of the Applicant. The annexed proceedings from the Land Disputes Tribunal confirms what the elders decided. The application is not opposed and the 2nd Respondent told the court he was not opposing the application.

The jurisdiction of the Tribunal is created by Section 3(1) of Land Disputes Tribunal's Act No.18/90.

The Applicant's land is registered under the Registered Land Act. The award by the Tribunal divided this land into two portions hence causing sub-division of the land.

This is outside its jurisdiction. In the case of **WAMWEA –VS- CATHOLIC DIOCESE OF MURANG'A REGISTERED TRUSTEES [2003] KLR – 398**. The Court of Appeal held that the Land Dispute Tribunals have no jurisdiction to deal with issues of interest or title to land. That's exactly what the 1st Respondent deal.

I find merit in the Applicant's application and hereby remove into the High Court the Award of the Embu District Land Disputes Tribunal No.120/07 dated 21/5/2008 and Award No.24/08 read on 24/11/08 which I hereby quash. I set aside all orders that have arisen from the award.

Each party to bear his/her own costs.

DELIVERED, SIGNED AND DATED AT EMBU THIS 14TH DAY OF DECEMBER 2011.

H.I. ONG'UDI

JUDGE