



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT MERU**

**Civil Case 197 of 2005**

**REPUBLIC.....APPLICANT**

**V E R S U S**

**THAARA MWORIA.....INTERESTED PARTY  
THE CHAIRMAN MERU NORTH DISTRICT.....1<sup>ST</sup> RESPONDENT  
LAND DISPUTE TRIBUNAL.....2<sup>ND</sup> RESPONDENT  
EX-PARTE APPLICANT: IMPARATA M'KIRIMA KIRURI**

**JUDICIAL REVIEW**

- The land Disputes Tribunal Act – No. 18/1990
- Confers no jurisdiction on Lands Disputes Tribunals to adjudicate on matters of title to land – s. 3 of the Land Disputes Tribunal Act 1990

**RULING**

By a notice of motion (the application) dated 26.12.2005 the exparte applicant brought one principal prayer namely:-

- **That the court be pleased to grant the applicant an order for Judicial Review for the writ of certiorari to quash the decision of the Land Disputes Tribunal in Meru Tribunal Case No. 21 of 2004 read in open court on 03/11/2006.**
- **An order of prohibition subsequent to the order of Certiorari to prohibit the award in Meru North District Land Disputes Tribunal Case No. 21 of 2004 from being implemented by any court or forum whatsoever.**

The motion was based on the grounds set out on the face thereof and the ex-parte applicants Affidavit verifying the facts sworn on 2<sup>nd</sup> December k2005. There was no record of leave granted to the Applicant to file a Supplementary Affidavit Verifying the Facts nor Supporting Affidavit of Motion. Those Affidavits are therefore expunged from the record.

The interested party filed a Replying Affidavit on 21<sup>st</sup> February 2006 in which he argues contrary to the ex-exparte applicant's contention that the Land Disputes Tribunal has jurisdiction to determine questions relating to "**sub division of land**" and/or a claim to occupy or work land. The ex parte Applicants contention is to the contrary that the land Disputes Tribunal has no jurisdiction to determine questions relating to registered land. This is indeed the position in law. No land Disputes Tribunal has jurisdiction to determine either ownership subdivision or transfer of the title to registered

land or any question of trust thereto. That is the requirement of section 159 of the Registered land Act (cap 300 Laws of Kenya) which clearly vest in the High Court Jurisdiction to determine issues of title to land. Any purported orders by any such tribunal to subdivide any parcel of registered land is without jurisdiction and the order is liable to be quashed on the grounds of illegality.

In the matter at hand the Meru North District Land Disputes Tribunal had no jurisdiction to order as it did the sub-division and transfer of the exparte applicant's land being Title No. NJIA/KIEGOI/48. Its decision dated 31<sup>st</sup> August 2005 having been made without Jurisdiction was ultra vires the Land Disputes Tribunal Act 1990 (No.18 of 1990).

The said decision is therefore called into this court and is quashed by order of certiorari, and shall have no effect in law whatsoever.

Having come to this conclusion, it is not necessary to consider the other leg of the motion an order of prohibition. In any event such order is called for, the decision made by the Tribunal having now been quashed. There is no action to prohibit. The prayer for such order does not therefore lie.

The exparte applicant's Motion does therefore succeeds as stated above. The applicant shall also have the costs of the application.

There shall be orders accordingly.

**DATED, DELIVERED AND SIGNED THIS 14<sup>th</sup> DAY OF JANUARY 2010**

**M. J. ANYARA EMUKULE**

**JUDGE.**