



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

**Miscellaneous Civil Application 103 of 2009**

**IN THE MATTER OF THE LAW OF REFORM ACT CAP 26 LAWS OF KENYA  
AND  
IN THE MATTER OF AN APPLICATION BY PATRICK WANYONYI WAKHUNGU AND STEPHEN KUNANIA WAKHUNGU  
FOR ORDERS OF JUDICIAL REVIEW  
AND  
IN THE MATTER OF THE LAND DISPUTES TRIBUNAL ACT NO. 18 OF 1990  
AND  
REPUBLIC.....APPLICANT  
~VRS~  
THE CHAIRMAN BUNGOMA LAND DISPUTES TRIBUNAL...RESPONDENT  
GABRIEL WAPANGANA KIBITI.....INTERESTED PARTY  
AND  
PATRICK WANYONYI  
STEPHEN KUNUNIA WAKHUNGU.....EXPARTE APPLICANTS**

**RULING**

The Ex-parte Applicants Patrick Wanyonyi and Stephen Kunania Wakhungu pray for orders of certiorari to remove into this honourable court and quash the decision of Bungoma Land Disputes Tribunal in dispute no.42 of 2008 which was adopted as judgment by Bungoma Chief Magistrate Court in LDT No.33 of 2008. It also prays for the costs of the application.

The grounds relied on are that the tribunal had no jurisdiction to arbitrate upon the dispute. The Land Bokoli/Mukuyuni/1487 was registered under the Registered Land Act and belonged to the Respondent and the Interested Party were served but did not file any response to the application. The application was therefore unopposed for all intents and purposes.

The jurisdiction of the tribunal is provided for under section 3 (1) of the Land Disputes Tribunal Act which includes the following:

- a) ***trespass to land,***
- b) ***claim to occupy or work land,***
- c) ***determination of boundaries of land held under customary law.***

The tribunal has no jurisdiction to arbitrate on any dispute relating to registered land. The Applicant herein has annexed a copy of title to show that the land is registered under Cap 300, Laws of Kenya. The land belonged to a deceased person Ibrahim Wakhungu Kunania. For those two reasons the tribunal acted without jurisdiction. The matter was supposed to be filed in court as a succession cause for distribution of the estate of the deceased.

The tribunal awarded the Interested Party a portion of the deceased's land and directed the family of the deceased to file a Succession Cause within one calendar year. The orders of the tribunal were null and void for lack of jurisdiction. The award of the tribunal was therefore a nullity.

I find that the application has merit. I hereby remove into this court the award of Bungoma Land Disputes Tribunal into this court and quash it accordingly. The costs of these proceedings to be borne by the Interested Party.

**F. N. MUCHEMI**

**JUDGE**

Dated, Delivered and Signed at Bungoma this 9th day of February, 2010. In the absence of the parties.