



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT ELDORET

Miscellaneous Application 700 of 2006

KIPNG'ETICH ARAP BUSIENEL.....APPLICANT

VERSUS

OL'ESSOR LAND DISPUTE TRIBUNAL)

NANDI SOUTH DISTRICT LAND REGISTRAR)

PRINCIPAL MAGISTRATE'S KAPSABET).....RESPONDENTS

1. WILLY KIPSEREM KISARMOL.....INTERESTED PARTY

2. ROMANA TOO.....INTERSTED PARTY

RULING

I. Background:

1. The applicant herein is the sale proprietor of parcel of land trading on Nandi/Koyeat/203 or Nandi/Kailot 203 measuring 34 actares or there about.
2. The land disputes tribunal at Ol'lessos in these Case No claim 1/06 heard a dispute and made award sub dividing the said piece of land to 1 and 2 interested party.
3. The award was adopted by the 3rd respondent being the Principal Magistrates court at Kapsabet on the 22 June 2006 in PMCC Land Disputes Tribunal No. 13/06.
4. The said orders were contrary to the powers given to the said tribunal and application to having judicial review proceedings were granted. That the said leave being granted, substantial notice of motion was filed.

II. Application:

5. The exparte applicant herein submitted that the Lands Disputes Tribunal exceeded their powers. This was indeed agreed upon by the advocate for the interested parties and the state.

III. Findings

6. The lands disputes tribunal has ownership of land, to the extent that they give the same by way of sub division, to other parties.

7. The powers of the tribunal is limited to customary law trespass and boundary disputes.

8. The application herein is granted to the exparte applicant as prayed with costs.

Dated this 21st day of April, 2010 at Eldoret.

M. A. ANG'AWA

JUDGE

Advocates

A.K. Chepkonga Advocate by the Firm of M/s Chepkonga & Company Advocate for the Applicant.

L. Kittony Advocate by the Firm of M/s Ledisha Kittony & Company Advocate for the interested party.

Ms. C. Oyula for State Counsel instructed by the Attorney General