



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT ELDORET

MISCELLANEOUS CIVIL APPLICATION 71 OF 2006

REPUBLICAPPLICANT

=VERSUS=

1. THE MARAKWET DISTRICT LAND DISPUTES TRIBUNAL
2. MARAKWET DISTRICT COMMISSIONER
3. MARAKWET DISTRICT LANDS SETTLEMENT OFFICER
4. THE MINISTER OF LANDS & SETTLEMENT.....RESPONDENTS

AND

1. KIBIWOTT CHEMWEI
2. JOSEPH KIBIWOT CHEMWEI
3. JACOB KIBIWOT
4. SMITH KAINO AND
5. CHEPKIYENG CHELANGAINTERESTED PARTIES

AND

1. JAMES CHERUIYOT CHEPTOO
2. WILLIAM KIPTARUS CHEBOI
3. PAULO KOMEN CHESEREK
4. ELISHA KIMAIYO CHEROP.....EX-PARTE APPLICANTS

RULING

I. Background.

1. A dispute between two clans as to the boundary has been going on for several years. In this Current judicial review proceedings, a land disputes tribunal was held. It in fact was not complete in its findings. There has been no decision adopted by the Magistrate's Court.

2. The exparte applicant applies for the said lands disputes tribunal stopped from making orders on grounds that the said tribunal members were sitting without basis as none were gazetted under the gazette notice provided. Its civil L.N.288/04 of 14.4.2004 by A. Kimunya Minister of Lands as he then was.

II. In reply:

3. The Advocate for the respondent, Attorney General left it to Court. The advocate for the interested party claim that there was nothing to quash as no decision had been taken.

III. Opinion

4. Judicial review proceedings are brought into Court against orders making decisions that are detrimental to the exparte appealant. In this particular case no decision has been made to quash the said findings of the elders (which findings is denied).

5. The application for judicial review proceedings are hereby dismissed with costs to the respondent and interested party.

DATED AT ELDORET THIS 21ST DAY OF April, 2010.

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M.A. ANG'AWA,

JUDGE.

Advocate

(i) Cheptarus Advocate instructed by the firm of M/s Cheptarus & Co. Adv. for the
Exparte Applicant - Present

(ii) R.K. Cheruiyot Advocate instructed by the firm of m/s Kimaru Kiplagat & Co. Adv. for the
Interested - Party - Present

((iii) C. Oyula, State Counsel instructed by the Attorney General for the State – Present