



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NYERI

Judicial Review 28 of 2010

REPUBLIC APPLICANT

VERSUS

THE CHAIRMAN: PROVINCIAL LAND

DISPUTES TRIBUNAL (R.V.P.) 1ST RESPONDENT

LYDIA

NYANJAU MUHONO 2ND RESPONDENT

EXPARTE

JOSEPH WAIHUKI KAMUHIA APPLICANT

RULING

The subject matter of this ruling is the motion dated 10th March 2010 in which **Joseph Waithuki Kamuhia**, the exparte applicant seeks for the following orders:-

1. **An order of Certiorari do issue to remove into the High Court and quash the proceedings and the award in the Provincial Land Disputes Tribunal (R.V.P.) and District Lands Disputes Tribunal, Ngarua in respect of L.R. No. Laikipia/Kinamba/Mwenje Block 1/1657 registered in the name of Joseph Waithuki Kamuhia as being null and void ab-initio.**
2. **An order of Prohibition do issue to prohibit the Provincial Land Disputes Tribunal (R.V.P.) from proceeding on matters relating to Title No. Laikipia/Kinamba Mwenje Block 1/1657 in so far as it relates to ownership and title thereof.**
3. **That the costs of this application be provided for.**
The motion is accompanied by the statement and is verified by the verifying affidavit of **Joseph Waithuki Kamuhia**

sworn on

16th January 2010. It would appear the motion was served but save for the 1st Respondent which filed a notice of preliminary objection, **Lydia Nyanjau Muhono**, the 2nd Respondent failed to file any reply.

When the motion came up for hearing **Mr. Ng'ang'a**, learned advocate for the ex parte applicant argued one main ground which is to the effect that the Land Disputes Tribunal and the appeals committee had no jurisdiction to determine a dispute relating to title to land. I have carefully perused the material placed before this court and the oral submissions of **Mr. Ng'ang'a**. The record shows that the 2nd Respondent herein had filed a complaint before the Nanyuki Land Disputes Tribunal claiming to be entitled to the parcel of land known as LR No. **Laikipia/Kinamba Mwenje Block 1/1657**. The Land Disputes Tribunal found the case for the 2nd Respondent. The Applicant was unhappy hence he was prompted to file an appeal to the Rift Valley Provincial Land Disputes Appeals Tribunal. In its decision delivered on 27th November 2009, the Provincial Appeals Committee set aside the Land Disputes Tribunals award of 4th September 2001. In the same judgment the appeals committee awarded the 2nd Respondent half the land. The Appeals Committee further issued orders canceling the title held by the Applicant.

The jurisdiction of the Land Disputes Tribunal is defined under Section 3(1) of the Land Disputes Tribunals Act No. 18 of 1990. The tribunal was not authorized to hear and determine disputes relating to ownership or title to land. The land in dispute i.e. L.R. No. **Laikipia/Kinamba Mwenje Block 1/1657** is registered in the name of **Joseph Waithuki Kamuhia**. His rights therefore as a registered proprietor are protected under sections 27 and 28 of the Registered Land Act. The jurisdiction to cancel title is bestowed upon the High Court and not the tribunal. In the end I find the motion dated 10th March 2010 to be well founded, it is allowed as prayed.

Dated and delivered this 23rd day of July, 2010.

J. K. SERGON

JUDGE

In open court in the presence of Mr. Wahome for the 1st Respondent. No appearance for Ng'ang'a for Applicant.

No appearance for the 2nd Respondent