



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT BUNGOMA**  
**Civil Suit 371 of 2005**

**IN THE MATTER OF AN APPLICATION BY (1) SAULO SHIBOKO MUKULO (2) NASHON AKHONYA (3) ROSE AKOSA (4) BEATRICE OMOLLO FOR ORDER APPLY FOR JUDICIAL REVIEW ORDERS OF CERTIORARI**

**AND**

**IN THE MATTER OF THE LAND DISPUTES TRIBUNAL ACT NO.18 OF 1990 IN THE LURAMBI LAND DISPUTES TRIBUNAL ACT NO.22/05 AND KAKAMEGA CM'S COURT LAND CASE NO.161 OF 2005**

**BETWEEN**

**REPUBLIC.....APPLICANT**

**AND**

**THE CHAIRMAN LURAMBI  
LAND DISPUTES TRIBUNAL.....RESPONDENT**

**EX-PARTE**

- 1. SAULO SHIBOKO MUKULO**
- 2. NASHON AKHONYA**
- 3. ROSE AKOSA**
- 4. BEATRICE OMOLLO.....APPLICANTS**

**VRS**

**JESCA MATENDECHERE MAKOKHA.....INTERESTED PARTY**

**RULING**

The Ex-parte Applicants Saulo Shiboko, Nashon Akhonya, Rose Akosa and Beatrice Omollo bring these judicial review proceedings under Order 53, Rule 2 of the Civil Procedure Rules seeking for orders to remove into this court and quash the decision of Lurambi Land Disputes Tribunal ordering sub-division at transfer to the Interested Party six hectares out of the Applicants' land parcels Butso/Indangalasi/1903, 1904, 1905 and 1906. The grounds are that the tribunal had no jurisdiction to deal with the registered land and make the orders of sub-division and transfer. The parcel number in respect of which the tribunal gave the orders Butso/Indangalasi/10 was at that time non-existent due to an earlier sub-division. The award of the

tribunal was adopted by the court as judgment vide Kakamega CMCC No.161 of 2005

The claim of the Interested Party was that the land Butso/Indangalasi/10 belonged to her late father. She claimed that the sons of the deceased sub-divided the land among themselves into parcels nos.1903, 1904, 1905, 1906 and 1907 and denied the Interested Party who is a daughter of the deceased her rightful share. The tribunal ordered cancellation of titles of the respective parcels and sub-division of the original parcel thus awarding the Interested Party six hectares. The remaining land was to be sub-divided equally among the Ex-parte Applicants.

The jurisdiction of the Land Disputes Tribunal is derived from section 3 (1) of the Land Disputes Tribunal Act. The section provides that the tribunal has jurisdiction in the following matters:

- a) ***the division of, or the determination of boundaries to, land, including land held in common;***
- b) ***a claim to occupy or work land; or***
- c) ***trespass to land.***

The dispute before the tribunal does not fall under section 3 (1) of the Act. It relates to registered land and it is only court that has jurisdiction to hear and determine the matter under section 159 of the Registered Land Act, Cap 300. It is the value of the land which determines whether the High Court or the magistrate's court that is possessed of the jurisdiction to hear the case.

The land in issue which the tribunal ordered sub-divided was Butso/Indangalasi/10. This title had been closed after sub-division into several parcels. The tribunal had no jurisdiction to order cancellation of registration of the parcels in order to revert to the original number. Neither did it have jurisdiction to award any party of registered land to the Interested Party.

For want of jurisdiction, the tribunal's award as adopted by the court was null and void.

I find this application merited and allow it with costs to the Ex-parte Applicants to be paid by the Interested Party. The award of Lurambi Land Disputes Tribunal is hereby removed into this court and quashed accordingly and it is hereby so ordered.

**F. N. MUCHEMI  
JUDGE**

Ruling dated and delivered on the 7<sup>th</sup> day of July, 2010 in open court in the presence of M/S Nanzushi for the Ex-parte Applicant.

**F. N. MUCHEMI  
JUDGE**