



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
MISCELLANEOUS APPLICATION NO. 176 OF 2007

IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

AND

**IN THE MATTER OF AN APPLICATION FOR ORDERS OF PROHIBITION AND
CETIORARI BY**

**REPUBLIC AGAINST LAND DISPUTES TRIBUNAL KIAMBU AWARD IN CASE
LDT/6/20/3/2006**

AND

IN THE LAND DISPUTES TRIBUNAL ACT NO. 8 OF 1990

BETWEEN

VERONICAH WAIYAI WANJIEAPPLICANT

V E R S U S

PRINCIPAL MAGISTRATE'S COURT AT KIAMBU.....1ST RESPONDENT

KIAMBU LAND DISPUTES TRIBUNAL.....2ND RESPONDENT

AND

STEPHEN NGIGI WAIYAI.....INTERESTED PARTY

R U L I N G

On 1st March, 2007 the Applicant filed a chamber application under **Order 53 rules 1, 2** and 3 of the **Civil Procedure Rules** for leave to apply for an order of certiorari to move to the court and quash the proceedings, decision and award of the 1st Respondent dated 21st March, 2006 in case No. LDT/6/20/3/06 and an order prohibiting the 2nd Respondent from entertaining, conducting or proceeding with land case

No. 4 of 2006. The complaint by the Applicant was basically that the 1st Defendant had, without jurisdiction, heard and determined an issue relating to title in respect of land parcel No. Ndumberi/Ndumberi/2762. Justice Emukule granted leave and ordered that the leave operates as a stay. He further ordered that if the substantive motion is not filed within the time prescribed by law, the leave granted would automatically lapse.

Under **Order 53 rule 3(1)**, the substantive application ought to have been filed within 21 days. There is no dispute no such application has since been filed. The leave granted and the order for stay lapsed after the 21 days. There is therefore no order of the court against the decisions of the Respondents regarding the title above.

The application is consequently allowed with costs.

DATED AND DELIVERED AT NAIROBI THIS 18TH DAY OF OCTOBER 2010

A. O. MUCHELULE

J U D G E