



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT EMBU
JUDICIAL REVIEW NO. 31 OF 2009

JANE WANGU KINYUA.....APPLICANT

VERSUS

1. LAND DISPUTES TRIBUNAL CENTRAL

DIVISION

2. P.M. KERUGOYA

3. LUCY MUTHONI KINYUARESPONDENTS

J U D G E M E N T

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The Applicant herein is seeking an order of certiorari to remove into this court for purposes of quashing the order made by the Land Disputes Tribunal Central Division on 29th April 2009 and adopted by the court as judgment on 14.05.09 to the effect that the land Registrar Kirinyaga do register Land parcel No. **INOI/KIRIKO/1604** under **LUCY MUTHONI KINYUA** and **JANE WANGU KINYUA** both with equal shares; the executive officer do sign all document to facilitate transfer and the old title deed be dispensed with.

Leave to file the application was granted by this court on 15.02.2010. The award and the decree arising therefrom are annexed to the application. The main ground on which the Application is premised is that the Tribunal exceeded its jurisdiction in interfering with the ownership of registered land. It has been submitted that the Tribunal does not have such power.

I have considered the Application along with the rival affidavits and the written submissions filed by counsel herein.

There is no dispute that the land that was subject to the Tribunal proceedings is registered to the ex-parte Applicant under the provisions of Cap 300 of the Laws of Kenya.

That in itself divests jurisdiction from the Land Tribunal to arbitrate over. The Tribunal's mandate is clearly expressed under Section 3(1) of the Land Disputes Tribunal act. The same does not include determination of ownership of registered land. The Tribunal did not therefore have jurisdiction to entertain the interested parties claim.

The Tribunal does not have power either to order that a Title Deed be canceled or rectified. Such orders are the preserve of this court or the Resident Magistrate's courts in instances where their pecuniary jurisdiction so allows.

For these reasons, the impugned award was made without jurisdiction. The same has no force of law

and is null and void *ab initio*. The notice of motion dated 1.03.2010 is therefore allowed. The award in question together with the resultant decree of the subordinate court are removed into this court and the same are hereby quashed.

W. KARANJA

JUDGE

Delivered, dated & signed at Embu this 22nd day of November 2010

In presence of:- Mr. Magee for Ms. Fatuma for ex-parte applicant.