



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT MERU**

**Miscellaneous Civil Application 167 of 2005**

**IN THE MATTER OF APPLICATION FOR ORDERS OF JUDICIAL REVIEW OF  
MANDAMUS**

**AND**

**IN THE MATTER OF E.R. OBJECTION NO. 77 OF 1997 MADE ON AMWATHI  
ADJUDICATION SECTION**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**VERSUS**

**DIRECTOR OF LAND ADJUDICATION ..... RESPONDENT**

**LAND ADJUDICATION OFFICER MERU NORTH ..... RESPONDENT**

**PHARIS NYAGA ..... INTERESTED PARTY**

**JUDGMENT**

The *ex parte* applicant by the Notice of Motion dated 23<sup>rd</sup> November 2005 seeks the following orders:-

**1. That the Honourable court be pleased to issue orders of Mandamus to compel the respondents to implement the 2<sup>nd</sup> respondent decision in objection No. 77 of 97 made on 8.4.1998 by:-**

**(a) Registering 0.50 acres of No. 2919 AMWANTHI ADJUDICATION SECTION in applicant's names.**

**(b) The balance of same parcel be registered in applicant's name on behalf of his father M'AMIRU deceased's family.**

**2. That costs be provided for.**

The *ex parte* applicant on 16<sup>th</sup> November 2005 obtained leave to file that Notice of Motion. In the application for leave, the *ex parte* applicant stated in his verifying affidavit that he was annexing the decision he sought its implementation. However in perusing the court records, I was unable to trace that

decision. Indeed the matter was not clear to me what the *ex parte* applicant was seeking until I considered the interested party's replying affidavit.

The interested party deponed that he is the owner of parcel No. AMWATHI/MAUA/2919. He purchased this land from the *ex parte* applicant's father some 30 years ago. The transfer was officially carried out through the land adjudication committee. The *ex parte* applicant therefore, according to the respondent, had no *locus standi* since the objection to that registration should have been filed by his father.

Further that the objection of the *ex parte* applicant was considered by the land adjudication committee and the outcome of it was that the parcel of land was to be demarcated in the interested party's name. In view of the foregoing, it is not clear what decision the *ex parte* application seeks implementation of his Notice of Motion.

For that reason, the Notice of Motion dated 23<sup>rd</sup> November 2005 is found to be incompetent by this court and is dismissed with costs being awarded to the respondent and the interested party.

Dated and delivered at Meru this 16<sup>th</sup> day of July 2009.

**MARY KASANGO**

**JUDGE**