



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

**AT MOMBASA**

**Misc Civil Appli 27 of 2009**

**IN THE MATTER OF: AN APPLICATION BY SULTAN KHAN ABDULLA & FULNAK  
SULTANI KHAN**

**AND**

**IN THE MATTER OF: THE CIVIL PROCEDURE ACT & RULES ORDER LIII, RULES 1,2,3  
AND 4**

**AND**

**KWALE/LAND AWARD NO. 54 OF 2005 IN RESPECT OF KWALE/DIANI SETTLEMENT  
SCHEME/201**

**AND**

**IN THE MATTER OF: KWALE DISTRICT LAND DISPUTE TRIBUNAL CASE NO. 54 OF 2005**

**REPUBLIC.....PLAINTIFF**

**-VERSUS-**

**MSAMBWENI LAND DISPUTE TRIBUNAL .....RESPONDENT**

**AND**

**RAMADHANI SWALEHE MWATAPHA**

**SWALEHE ABDALLA MWATAPHA.....INTERESTED PARTY**

**EXPARTE**

**SULTAN KHAN ABDULLA**

**FULNAK SULTAN JIHAN .....APPLICANTS**

**J U D G M E N T**

I am satisfied that the Interested Party was duly served. The Respondent is not opposed to the application. The Interested party appears to have filed a separate suit to seek the same orders granted by the Tribunal.

On the merits, I find that the Tribunal in effect made orders determining questions of ownership and revocation of title. It clearly had no jurisdiction to grant the orders made. The title was issued after adjudication of land and it is only a court of law which can revoke the said title.

I do grant prayer 1 of the Notice of Motion dated 9.3.09 with costs against the Interested Party.

**Dated at Mombasa this 1<sup>st</sup> day of September 2009.**

**M. K. IBRAHIM**

**J U D G E**