

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT EMBU

Misc. Appli. 23 of 2007.

IN THE MATTER OF AN APPLICATION BY NYAGA RUBIRUTHI FOR JUDICIAL REVIEW

ORDER OF CERTIORARI

AND

IN THE MATTER OF THE LAND DISPUTES TRIBUNAL ACT NO. 18 OF 1990

AND

IN THE MATTER OF THE EMBU DISTRICT LAND DISPUTES TRIBUNAL COMMITTEE

REPUBLIC.....APPLICANT

VERSUS

CHAIRMAN EMBU DISTRICT LAND

DISPUTE TRIBUNAL.....1ST RESPONDENT

ANISIA WARUE NYAGA.....2ND RESPONDENT

JUSTIN NJIRU NYAGA.....3RD RESPONDENT

JOHN MUNYI NYAGA.....4TH RESPONDENT

RULING

The decision of the Tribunal is hereby quashed on ground that the decision forwarded to the subordinate court to be read was contrary to the provisions of laws and was without the jurisdiction granted to Tribunals under Section 3 (1) of Land Disputes Tribunals the issues arising are not regarding subdivision of land right to work on land, or trespass to land. The tribunal had no authority to issue orders directed to the police to investigate criminal issues. Again the award was unlawful. There is no law entitling the children to interfere with their father's assets in his lifetime. They have to wait until he expires and then the provisions of Succession Act shall apply. The application is allowed orders granted as prayed the Respondents and the Tribunal shall pay the costs of this application to the ex parte applicant.

It is so ordered.

Dated this 21st April, 2008.

J. N. KHAMINWA

JUDGE

