



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**MISC. CIV. APPLI. 58 OF 2007**

**NYAGA MUCHIRI.....1<sup>ST</sup> APPLICANT**

**GRACE NGURU MUCHIRI.....2<sup>ND</sup> APPLICANT**

**V E R S U S**

**THOMAS NJIRU KANYUNGA.....1<sup>ST</sup> RESPONDENT**

**MICHEU KANYUGA.....2<sup>ND</sup> RESPONDENT**

**THE LAND DISPUTES TRIBUNALS ACT. 1990.**

**v High Court has no power to extend time to appeal to the Appeals Committee beyond the statutory thirty days.**

**v S. 8. The Lands Disputes Tribunals Act 1990.**

**R U L I N G**

By a Notice of Motion brought under Order L Rule 1 of the Civil Procedure Rules and purportedly pursuant to Sections 3 and 3 A of the Civil Procedure Act (Cap 21, Laws of Kenya and section 8 of the Land Disputes Tribunals Act 1990 (No 18 of 1990), the Applicants herein invoke the court's inherent jurisdiction for orders that the court do.

- 1. Grant the Applicants leave to appeal to the Provincial Land Disputes Appeals Committee.**
- 2. Provide for the costs incidental to the application and the intended appeal.**

Section 8 of the Land Disputes Tribunals Act 1990 (No. 18 of 1990) provides as follows:-

**8(1) Any party to a dispute under section 3 who is aggrieved by the decision of the Tribunal may within thirty days of the decision, appeal to the Appeals Committee constituted for the Province in which the land which is the subject matter of the dispute is situate.**

**(2) - (10) (inclusive) are not in issue for the purposes of this Ruling.**

Section 3 of the Civil Procedure Act provides for the Application of any special jurisdiction or power conferred or any special form or procedure prescribed, by or under any other law for the time being in force.

Section 3A restates the Court's inherent power under Section 60 (1) of the Constitution to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court.

Section 8 of the Land Disputes Tribunals Act provides for or prescribes a special jurisdiction or power in relation to appeals from decisions of Land Disputes Tribunals or a Land Dispute Tribunal. It provides for a right of appeal to the Appeals Committee constituted for each Province where the land is situated. It also provides that such an appeal be lodged within 30 days. That is a statutory provision. Where the law provides for a time within which to do a thing or an act, or make a decision, the court has neither jurisdiction nor power to alter that law or extend the time within which such an act may be done or a decision made. The court could only do so if there was a power or discretion conferred or donated to or upon it by the relevant law. It cannot do so under its inherent or unlimited and original jurisdiction even under Section 60 of the Constitution. The court is not a legislative body, it cannot change legislation except in its Constitutional jurisdiction under section 3 of the Constitution – where a law is inconsistent with any provision of the Constitution and the court can declare such law to be void to the extent of the inconsistency.

That not being the case herein, the Applicants' Notice of Motion is not only misconceived, but it is also incompetent.

What the Applicants or their legal advisers should do is to look hard at the jurisdiction of the Land Disputes Tribunal and determine whether it was within its jurisdiction to make the decision which is sought to be challenged. If they were to find in their own opinion that the Tribunal made a decision which was not within its competence and therefore committed an illegality then the proper steps to consider is whether an application for judicial review would lie.

As for the Application herein the court does not as explained above have the jurisdiction to extend time for which to prefer an appeal and the Notice of Motion is therefore dismissed with a direction that each party shall bear its own costs.

It is so ordered.

Dated, delivered and signed at Meru this 30<sup>th</sup> day of June 2008

M. J. ANYARA EMUKULE

JUDGE.