



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)

Misc Civ. Suit 649 of 2006

REPUBLIC..... APPLICANT

VERSUS

LAND DISPUTE TRIBUNAL MARAGUA..... 1ST RESPONDENT

CHIEF MAGISTRATE COURT MURANGA.... 2ND RESPONDENT

PAUL GACHANJA.....1ST INTERESTED PARTY

GRACE WATHIRA KARIUKI.....2ND INTERESTED PARTY

EX – PARTE

PETER JOSEPH WAITHAKA MAINA

JUDGMENT

I. Background

1. The ex parte applicant is the registered absolute proprietor of LR Loc 3/ Gituru/40 and LR Loc 3 Gituru/ T31.
2. He was sued in the lands Disputes tribunal by the respondent, one Paul Gacanya who claimed ownership of Loc3/ Gituru/ 40 by way of Trust on his behalf by the ex parte applicant. The tribunal entered judgement for the said claimant and went further to award Loc 3/Gituru/T.31 to one Grace Wathira Kariuki as also having had the land held in trust for her.
3. The ex parte applicant filed for Judicial Review Proceedings.

II. Judicial Review Proceeding

4. On the 2 October 2006 leave was granted to institute Judicial Review Proceedings (Nyamu J). The ex parte applicant failed to attend court.
5. The ex parte application sort orders of certiorari and prohibition to quash the finding of the tribunal.

II: Opinion

6. The findings of the tribunal exceeded the jurisdiction of that court. That under section 3 of the Land Dispute Tribunal Act the tribunal are not permitted to deal with issues of ownership of land. This lies only with the High Court of Kenya.

7. I hereby agree that the tribunal exceeded its powers. The said application be and is hereby granted as prayed.

8. Order that prays for certiorari and prohibition be accordingly granted.

9. There will be costs to the exparte applicant to be paid by the respondent.

DATED THIS 29TH DAY OF JULY 2008 AT NARIOBI

M.A. ANG'AWA

JUDGE

N.M. Mugo instructed by Wa-Mugo & Co. Advocates for the exparte/ applicant-present

Kanyi Nduruma isintruced by Kanyi Nduruma & Co. Advocates for the defendant - absent