

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

MISC CIV APPLI 94 OF 2006

JOHN MWII KAMUNYAAPPLICANT

VERSUS

KIRINYAGA DISTRICT & LDT.....1ST RESPONDENT

RAPHAEL MUGERA KARANI.....2ND RESPONDENT

JUDY WANGECHI KARANI.....3RD RESPONDENT

RULING

Application by Notice of Motion dated 7/8/2006 in Judicial Review seeks orders of Certiorari to quash the decision of Land Disputes Tribunal in its **Case No. 21/2006** and an order of prohibition restraining Execution of such decision grounds are that the Tribunal acted contrary to law in excess of jurisdiction interfering with land registered under Registered Land Act Cap. 300. The claim was also based on Trust and the tribunal had no jurisdiction to deal with issues relating to trust. That the tribunal proceeded to give land to somebody who was not a party to proceedings and who had made no claims. The Tribunal failed to file with the award all depositions and other documents produced before it. Affidavit shows that the ex-parte applicant was registered owner of the Land **Mwea/Tebere/1331** now divided into plot 1780 and 1786. The Tribunal acted contrary to the provisions of Registered Land Act Cap 300.

I have perused the proceedings attached it is clear the claimant was raising issues of trust which are not within the jurisdiction of the Tribunal. The issue of deciding on ownership of land Registered under Registered Land Act is contrary to the rights of a proprietor conferred under the Act (Section 27 & 28). The jurisdiction of disputes on the registered land is in the High Court and the subordinate courts.

I therefore find that the tribunal acted without jurisdiction. I allow application and grant orders sought with costs to the exparte Applicant payable by the Tribunal. For the benefit of the interested Parties Rapheal and Judy Wangechi, I have to state that Judicial Review is not meant to look into private parties disputes. It is meant to check the powers of the statutory bodies so that they do not exceed their statutory power and therefore infringe on the rights of the citizens. Therefore the court looks into the manner the Tribunal has exercised its powers and if it is found to have acted without jurisdiction the Judicial Review is there to quash. My decision is supported by the authority cited by Mr. Ndena namely C.A decision in Appeal No. 157/2001 Maloba Wekhukuli & another Vs Francis W. Bilati.

Dated this 22nd January 2007.

J. N. KHAMINWA

JUDGE