



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

Misc 156 of 2006

**IN THE MATTER OF AN APPLICATION BY JANE WAINOI RANG'A FOR
ORDERS OF JUDICIAL REVIEW**

AND

**IN THE MATTER OF LAND DISPUTE TRIBUNAL CASE NO. T.C 13 OF 2005
CENTRAL DIVISION KIRINYAGA DISTRICT**

AND

**IN THE MATTER OF KERUGOYA SENIOR RESIDENT MAGISTRATE'S COURT
LAND DISPUTES TRIBUNAL CASE NO. 84 OF 2006**

AND

IN THE MATTER OF LAND PARCEL NO. INOI/NDIMI/456

REPUBLIC OF KENYA.....APPLICANT

VERSUS

**THE DISTRICT LAND DISPUTES TRIBUNAL – CENTRAL DIVISION
THE SENIOR RESIDENTMAGISTRATE'S COURT KERUGOYA**

JULIUS MURIITHI RANG'A..... RESPONDENTS

EX-PARTE

1. JANE WAINOI RANG'A.....APPLICANT

JUDGMENT

Notice of Motion dated 21/11/2006 seeks to quash orders of District Lands Dispute – Central Division Kirinyaga in respect of plot No. Inoi/Ndimi/456 made on 31/8/2006 and also to quash the adoption of *Senior Resident Magistrate's Court Kerugoya* into a court decree. The record of the proceedings shows that the claimant is the step son of the Ex parte Applicant and that his claim is ½ of plot No. **Inoi/Ndimi/456**. This land is registered in the name of Exparte Applicant. He is also claiming under a

trust. The tribunal made an award directing the Ex parte Applicants land to be subdivided and ½ thereof be given to the claimant and ½ to remain with Exparte Applicant.

This award interferes with the ownership of the land in dispute. The Applicant is the proprietor and her interest is protected under Registered Land Act Cap 300 Section 27and 28. The issue as to whether there was a trust in favour of the claimant is not within the jurisdiction of the Tribunal. It is not for Judicial Review to fault the decision of the Tribunal but to see to it that the Tribunal keeps within the powers granted by the statute establishing the same.

It is my finding that the Tribunal acted without jurisdiction and the proceedings before the **Senior Resident Magistrate Kerugoya** adopting the award into a decree were void and null.

I allow the application and grant orders as prayed.

No orders as to costs.

Dated this 13th March, 2007.

J. N. KHAMINWA

JUDGE

13/3/2007

Khaminwa – Judge

Njue – Clerk

Mr. Kahiga for Applicant

Respondent in person

J. N. KHAMINWA

JUDGE