



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT EMBU**

**Misc Case 28 of 2002**

**JOE MBOGO GATE.....APPLICANT**

**VERSUS**

**EUSEPHIA NJURA KINYA.....RESPONDENT**

**JUDGMENT IN JUDICIAL REVIEW**

Notice of Motion dated 22/6/2002 seeking Orders for Certiorari and Prohibition against the decision of Provincial land Appeals Committee Eastern Province dated 31/5/2001.

On the grounds that the Tribunal acted in excess of jurisdiction and against the rules of Natural Justice. The Tribunal dealt with registered land which is registered in the Ex parte applicant. The exparte applicant is the registered owner but was not a party to the proceedings.

I have perused the proceedings and the award of the Tribunal of Title Deed for **Plot No. Kyeni/Mufu/4447** which was on twenty third June 2000 issued to the ex parte applicant.

It is my finding that the ex parte applicant whose land was awarded to other persons should have been a necessary party in the proceedings. As it is his land and rights thereon granted under the provisions of Registered Land Act were taken away from him without him being heard by tribunal. This is contrary to the basic principles of Natural Justice that all parties with interest in a dispute before court must be heard. Also the Land Disputes Tribunal is restricted in dealings with issues of ownership of land especially Registered land. It appears the Interested Party thinks the Exparte applicant has other land and that this court should protect interests of the interested party. In this regard it is clear that Judicial Review is not for solving disputes between the parties and this court is not empowered to examine the merits of the case. It is only to examine decision making process by the statutory body that is appointed to decide disputes to see to it that it keeps within the law.

In this case I have said above that the decision of the Tribunals was without jurisdiction and violated the rules of natural justice. I therefore allow application and grant orders sought with costs.

Dated this 18<sup>th</sup> May, 2007.

**J. N. KHAMINWA**

**JUDGE**

**18/5/2007**

**Khaminwa – Judge**

**Njue –Clerk**

**Mr. Momanyi for Applicant**

**Ruling read in his presence.**

**J. N. KHAMINWA**

**JUDGE**