

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

Misc Civil Appli 181 of 2005

FELIX MATHENGE MURAGEAPPLICANT

VERSUS

THE CHAIRMAN LAND DISPUTE TRIBUNAL.....1ST RESPONDENT

BARICHO RESIDENT MAGISTRATE COURT.....2ND RESPONDENT

TABITHA NGONYO KARIUKI.....3RD RESPONDENT

RULING

Application dated 20/4/2006 seeks order of certiorari to quash the award made on 5/8/2005 by Ndia Land Disputes Tribunal and the Judgment and decree adopted by *Baricho Resident Magistrate's Court Land Dispute Tribunal No. 14/2005*. Applicant also prays for costs. The application is supported by statement dated 6/12/2005 which shows that the award was in respect of ownership Mwerua/Kagioini/881 which ordered subdivision of the land into two portions.

From the record it clear the land is Registered and the members of the Tribunal found that the dispute was a succession matter. However the Tribunal ordered the title **No. Mwerua/Kagioini/881** he cancelled and the land be subdivided into 2 portions. The applicant states that the Tribunal had no jurisdiction to deal with ownership of registered land. Provisions of Section 3 Land Disputes Act 18/90 do not empower the Tribunal to deal with ownership of registered land. The provisions of Registered Land Act confers an absolute title to a registered owner and the jurisdiction to deal with issues arising is not granted to the Tribunals. I therefore find that the Tribunal acted without jurisdiction and therefore the award is a nullity. The Resident Magistrate Baricho acted in error entering judgment that was a nullity.

I allow the Application and grant orders as prayed.

Dated this 27th July, 2007.

27/7/2007

Khaminwa – Judge

Njue – Clerk

Read today in open court in presence of Mr. Njiru HB for Magee.

J. N. KHAMINWA

JUDGE