

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYERI

Civil Appeal 3 of 2002

WAMBUI THINDIGWA.....1ST APPLICANT/OBJECTOR

JAMES NGUNYI.....2ND APPLICANT/OBJECTOR

KAMAU NJUGUNA.....3RD APPLICANT/OBJECTOR

Versus

ANTONY CHEGE KAMAU.....1ST RESPONDENT/PETITIONER

FRANCIS CHEGE KAMAU.....2ND RESPONDENT/PETITIONER

(Being an appeal from the decision of the Provincial Appeals Committee at Nyeri)

RULING

An application is made by the Appellant by way of Notice of Motion dated 10th November 2003. The application is brought under *Order XLIV Rule 1(1) (b) and 1(2)* of the Civil Procedure Rules. The application seeks that this court do review the order made on 23rd October 2003. On that day this Court, having heard the appeal filed against the finding of the Provincial Appeals Committee at Nyeri, delivered the following judgment.

“In this appeal, what official documents do I have from the relevant Government Land Office to confirm to me that what I am being told that the Appellants are the registered owners of the suit parcel of land is true? I find none. I am therefore unable to also say that the Appellants are indeed the registered owners and go ahead to grant the orders prayed for.

Accordingly, this appeal is dismissed with costs to the Respondents.”

By the present application the Appellants state that the appeal was dismissed for reasons beyond their control since it was Nyahururu Lands Dispute Tribunal and the Appeals Committee which failed to annex the title to the proceedings. They further deponed that land parcel **NYANDARUA/OLARAGWAI/730** is registered in their names. They therefore prayed that the Court would review the order dismissing their appeal since they had now annexed the copy to the title to the application.

The Court has considered that application and it finds that the application is not merited. The Appellant seeks a review of the judgment of this Court but it ought to be noted that it was the Appellants who compiled the record of appeal containing the Memorandum of Appeal and the proceedings before the Provincial Land Disputes Appeals Committee, Central Province. That being the case the Appellants cannot blame anyone else but themselves for having failed to attach the title to their record of appeal. The appeal having been dismissed after the hearing the only venue opened to Appellant is to appeal against that dismissal. The Court therefore finds that the Notice of Motion dated 10th November 2003 is misconceived and is accordingly hereby dismissed with no orders as to costs.

Dated and delivered at Nyeri this 27th day of July 2007.

MARY KASANGO

JUDGE