



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT EMBU

Misc Case 102 of 2005

REPUBLIC.....APPLICANT

VERSUS

THE CHAIRMAN MWEA L.D.T.....1ST RESPONDENT

THE MWEA LAND DISPUTES TRIBUNAL.....ND RESPONDENT

SOPHIA WAMBURA MUNYI.....3RD RESPONDENT

ISAACK MURIUKI MUNYI.....4TH RESPONDENT

RULING

There is before the court a Notice of Motion seeking orders by a party described as Affected Party/Applicant seeking orders:-

1. THAT 3RD Respondent Sophia Wambura Munyi and 4th Respondent Isaac Muriuki Munyi be forcefully removed from Rice Holding No. 1620 within Mwea Section Irrigation Scheme and the affected applicant Patrick Waweru Munyi be put in exclusive possession of the Rice holding.
2. that eviction be carried out by M/s Quickline Auctioneers
3. that the OCS Wang'uru be ordered to provide security during the eviction
4. and costs.

The ground relied upon is that the Respondents continue to occupy the rice holding on the strength of the nullified award of the Land Disputes Tribunal that the Respondent is an unauthorized person in Rice Holding 1620.

The dispute as stated arose from the judgment of this court in **Judicial Review Cause No. 102 of 2005** in which this court quashed the award of Land Disputes Tribunal and the decision of the Resident Magistrate Wang'uru adopting the award as decree of court.

The award of Tribunal in connection with Rice holding No. 1620 allocated 2 acres each to Isaac M. Munyi and Wanjira Munyi and Sophia Wambura and Lucy Wakaria one acre. The present Applicant was not a party to the judicial proceedings. He did not participate.

However it is shown that he is the registered licensee of the Rice Holding 1620 and he says so in his Supporting Affidavit. In its ruling in Judicial Review this court quashed the award and decree made in the Tribunal proceedings. This court said that the jurisdiction of judicial review is to check the exercise of power granted to statutory bodies as against the citizens who may have their rights breached by the exercise such powers. **“The jurisdiction is not to sought out private disputes.”** Further the High Court in its Judicial Review proceedings is not mandated to replace its own decision with that of the Tribunal. The powers of High Court is to quash such of decisions of statutory bodies as are found to have been reached without jurisdiction. The judgment of court in Judicial Review is final but subject only to the right of Appeal granted by law. The court therefore becomes functus officio upon pronouncing judgment. The motion now filed in this judicial Review is invalid and the same is hereby dismissed. The applicant is at liberty to take up his claims in other appropriate forums.

The costs of this application are awarded to the Respondent.

Orders accordingly.

Dated this 10th July, 2007.

J. N. KHAMINWA

JUDGE

10/7.2007

Khaminwa – Judge

Njue – Clerk

M/s Wairimu present

N/A

Ruling read in open court.

J. N. KHAMINWA

JUDGE