



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT EMBU
MISC CIV APPLI 22 OF 2006

REPUBLICAPPLICANT

VERSUS

1.KERUGOYA CENTRAL DIVISION LAND DISPUTE TRIBUNAL..1ST RESPONDENT

2. S.R.M. KERUGOYA COURT.....2ND RESPONDENT

3. GEOFFREY MUTHII MURAGE.....3RD RESPONDENT

FRANCIS MAINA MURIUKI.....EXPARTE APPLICANT

RULING

Notice of Motion dated 28/3/2006 seeks orders of certiorari to quash tribunal decision and the decision of the Resident Magistrate adopting the decision as a court judgment. The reasons are contained in the statutory statement and the verifying affidavit with annexures. The grounds are that the Central Division Land Dispute Tribunal Kerugoya acted *ultra vires* in view of section 3 (1) and 13 (1) and (3) of Lands Disputes Tribunal Act 18 of 1990 by arbitrating on fraud, forgery and title. The tribunal interfered with illegally in that the award was to deprive the *exparte* applicant of his land **Mutira/Kirunda/1434**. The *exparte* applicant has exhibited the judgment of court under which he became owner and was subsequently registered as proprietor of the said land in case N. 297 of 1999.

From the affidavit of the interested party he denies the facts as given by the *Expate* Applicant. He says he agreed to sign some documents by force. What he is not able to explain is how the *Ex parte* Applicant became registered as proprietor without any resistance by way of appeal against the said registration. The proprietor is protected by the provisions of Registered Land Act. The jurisdiction is deed with registered land is in ordinary Civil Courts in the contrary.

By this application the duty of this court is to check excess of jurisdiction of tribunals established for certain purposes only and it is not equipped to deal with all matters which are death with by ordinary courts. Section 3 (1) sets out the matters the Tribunal may deal with. The dealing with ownership of registered land is not one of them.

I am satisfied by the argument of the *Expate* Applicant that the Tribunal acted without jurisdiction in ordering the change in the ownership of **plot No. Mutira/Kirunda/1434**.

I allow this application and grant prayers sought. However I make no order as to costs.

Orders accordingly.

Dated this 23rd January 2006.

J. N. KHAMINWA

JUDGE

23/1/2007

Khaminwa – Judge

Njue – Court Clerk

Mr. Magee HB

3rd Respondent – present

Ruling read in open court in their presence.

J. N. KHAMINWA

JUDGE