



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT BUNGOMA
Misc Appli 83 of 2002**

**IN THE MATTER OF AN APPLICATION BY PROTUS WASIKE FOR CERTIORARI AND
PROHIBITION**

AND

IN THE MATTER OF THE LAND DISPUTES ACT NO.18 OF 1990

BETWEEN

REPUBLIC Through PROTUS WASIKE APPLICANT

VERSUS

HON. ATTORNEY GENERAL

On behalf of CHAIRMAN CENTRAL LAND DISPUTES TRIBUNALRESPONDENT

AND

PETER WANAJALA MAKOTI

FELISTUS N. WANYAONYI.....INTERESTED PARTIES

RULING

By an application dated 17th June 2002, by way of Notice of Motion, Under Order LIII Rule 3 of the civil procedure Rules, the applicant sought orders:

1. That it pleases the Honourable Court to issue an order of certiorari and prohibition to remove into this Honourable court and quash the decision of the Central Land Disputes Tribunal Case No. 2 of 2001 adopted as judgment by Bungoma SPMCC MISC APPL. NO.38 of 2001 on 25.1.2002 and prohibit the Chairman Central Land Disputes Tribunal from ever properly to adjudicate matters in respect of Land Parcel NO.E.BUKUSU/N.NALONDO/261 or at all.

2. That costs of this application be provided.

The application is based on the grounds that:

1. That the tribunal had no jurisdiction to entertain the matter and therefore acted in excess of its jurisdiction.

2. That the tribunal had no jurisdiction to deal with the subject that has title to wit parcel of land known as E.BUKUSU/N.NALONDO/261.

The application is supported by the annexed affidavit of Protus Wasike, the applicant sworn on the 18th day of June 2002.

The applicant urged me to grant orders of certiorari and prohibition to remove into this Honourable Court and quash the decisions of the Central Land disputes Tribunal Case No.2 of 2001 adopted as judgment by Bungoma SPMCC MISC APPL. NO.38 of 2001 on 25th January 2002 and prohibit the chairman Central Land disputes Tribunal from ever properly to adjudicate matters in respect of Land Parcel NO.E.BUKUSU/N.NALONDO/261 or at all.

The applicant further urged me to consider the reasons set out in the face of the application and the supporting affidavit.

The applicants further urged me to take into consideration that despite service, no replying affidavit or any response has been forthcoming even when time was enlarged for the respondent and the interested parties to challenge the application.

I have carefully gone through the application and note that the award challenged was read and adopted by the Bungoma SPMCC NO.38 of 2001 on 25.1.2002 and the application was filed on 18th June 2002, a period of less than 6 months.

Leave was granted on 23rd May 2002 by Mr. Justice Ringera (as he was then).

In the absence of evidence to controvert that of the applicant, I find that the applicant has made out a case good enough to warrant the giving of the orders sought, which I hereby do in terms of prayer (1) and (2) of the Notice of Motion herein.

DATED AND DELIVERED AT BUNGOMA THIS 21st DAY OF FEBRUARY 2006.

N.R O. OMBIJA

JUDGE Mr. Onchiri for Sichangi for Applicant.

N/A for Respondent.