

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITALE

Misc Civ Appli 3 of 2006

ISAIAH OLINGA

ANYASIAPPLICANT.

VERSUS

RIFT VALLEY PRO. LAND APPEALS

COMM.....RESPONDENT.

FRANCIS MASINDE

MATUMBAIINTERESTED PARTY.

RULING.

I have seen the application dated 10/1/2006. I have confirmed that all the pleadings are in order. I have seen annexure marked IOA2 which is from the Provincial Commissioner Rift Valley acknowledging that the appeal in question is still pending before the Appeals tribunal. That annexure was written 2 years ago. It is stated that further correspondence has not been replied to. In my view, 3 years is definitely a very long time to be kept in the dark not knowing when an appeal will be heard. There is no indication as to when the same will be heard. Meanwhile, the applicant cannot make use of the land in question.

This in my considered view is a good case for judicial Review. The application by the applicant is therefore allowed. He is granted leave to file for orders of mandamus against the 1st Respondent. It is however noted that orders of mandamus cannot issue against the interested party "FRANCIS MASINDE MUTUMBAI" as he is not a public officer. His name should therefore be excluded when the main application for mandamus is filed. Orders accordingly.

W. KARANJA.

JUDGE.

Delivered, dated and signed today in open court in presence of:-