



REPUBLIC OF KENYA

**IN THE HIGH COURT OF KENYA**  
**AT BUNGOMA**

**Civil Misc Cause 174 of 2005**

**IN THE MATTER OF AN APPLICATION BY CHRYSOSTIM BARASA SANGURA FOR  
LEAVE TO APPLY FOR ORDERS OF JUDICIAL REVIEW**

**AND**

**IN THE MATTER OF LAND DISPUTE TRIBUNAL ACT NO.18 OF 1990**

**BETWEEN**

**REPUBLIC.....APPLICANT**

**VS**

**THE CHAIRMAN, BUMULA  
LDT.....RESPONDENT**

**EX-PARTE**

**CHRISOSTIM BARASA  
SANGURA.....APPLICANT**

**AND**

**1 AYANJA NASIKE**

**2 RITA KHWAKA**

**3 SUSANA NASIPWONDI**

**4 MARGARET NABANGALA.....INTERESTED  
PARTIES**

**RULING**

By an application by way of Chamber Summons, pursuant to the provisions of Order LIII, Rules 1(1), (2) and (4) of the Civil Procedure Act and section 8 and 9 of the Law Reform Acts, the applicant seeks orders:

1. That leave be granted to the ex-parte applicant to move this Honourable Court for orders of

certiorari to remove into this court and quash the decision of Bumula Land disputes Tribunal which was read and adopted as judgment of the court on 6<sup>th</sup> June, 2005 in Bungoma SPMCC Court vide LDT No. 13 of 2005.

2. That the grant of leave aforesaid do operate as a stay of proceedings pending the hearing and determination of the substantive motion to be filed.

3. That costs of this application be in cause.

The application is based on the grounds:

a) That the tribunal had no jurisdiction to arbitrate over title to the registered land more so a first registration.

b) That the tribunal acted in excess of jurisdiction by ordering the applicant to be awarded 5 acres and the interested parties 4 acres, 2 ½ acres, 1 ½ acres and 1 ½ acres respectively.

c) That the tribunal fell into error of law as in entertaining a dispute that was for all intents and purposes barred by the Limitation of Actions Act and thereby offended section 13 of the Land disputes Tribunal Act.

d) That the Tribunal acted in excess of jurisdiction in entertaining a matter relating to beneficial ownership of land.

The application is predicated upon the annexed affidavit of Chrisostim Barasa Sangura sworn on the 13<sup>th</sup> day of July, 2005.

The applicant's case is that he is the first registered owner of land parcel NO. W.BUKUSU/E/SIBOTI/261 in respect of which he obtained a title deed in 4<sup>th</sup> February, 1988. A copy of the register is exhibited as "CBS I." That his title is therefore indefensible. Furthermore, he has been residing on the said parcel of land since 1956.

Accordingly, when the Bumula Land Disputes Tribunal awarded part of the land to the interested party and 5 acres to the applicant as per exhibit CBS 2 and the said award was adopted as judgment of the court on 6<sup>th</sup> June 2005 as per exhibit CB3 the whole proceedings went against the grain.

That in any event the claim of the interested party fell outside the provisions of section 3(1) of the Land disputes Act.

I have scanned through the application and note that the subject parcel is a first registration. The application is therefore not without basis. Accordingly, I grant the application in terms of prayer 1 and 2. costs will be in the cause.

DATED and delivered at Bungoma this 12th day of June 2006.

N. R. O. OMBIJA

JUDGE