

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KAKAMEGA
Civil Misc Appli 79 of 2005

REPUBLICPLAINTIFF

V E R S U S

RHODAH C. CHENDEKHAINTERESTED PARTY

A N D

THE CHAIRMAN, ILEHO LAND DISPUTES TRIBUNALRESPONDENT

RULING

The exparte applicant, Patrick Muleshi Ingati, applied in his Notice of Motion dated 23-11-05 for an order of CERTIORARI to bring into this court for quashing the decision of ILEHO LAND DISPUTES TRIBUNAL which had been filed in the Kakamega Chief Magistrate's court Misc. Award No. 115 of 2005 for adoption as a judgement of the court.

The verifying affidavit sworn on 24-10-05 by the exparte applicant did not annexe the decision sought to be quashed or the proceedings of the Ileho Land Disputes Tribunal which were alleged to have been conducted in absence of the exparte applicant who claimed that he was denied the right to be heard. The verifying affidavit is deficient of vital evidence and the order sought cannot be granted in absence of such evidence.

I have carefully perused the application and the affidavits and considered the submissions of counsel and it is my finding that there is no evidence to support the Notice of Motion and therefore the orders sought cannot be granted.

The Notice of Motion dated 23-11-05 is hereby dismissed with no order as to costs.

Dated, signed and delivered at Kakamega this 8th day of June, 2006

G. B. M. KARIUKI

J U D G E