



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT EMBU**

**Misc 189B of 2005**

**WANJA MWANIKI.....APPLICANT**

**VERSUS**

**1. CHAIRMAN GICHUGU D. LDT.....1<sup>ST</sup> RESPONDENT**

**2. ONESMUS CHOMBA. N. GITHINJI.....2<sup>ND</sup> RESPONDENT**

**RULING**

The application dated 8/3/2006 seeks orders of certiorari to quash an award made by Gichugu Division Land Disputes Tribunal which tribunal ordered transfer of ½ acre piece of land from parcel No. Ngiriana/Ngiriambu/1159. In his statement the complainant admitted before the Tribunal that the said piece of land is registered in the name of Exparte applicant Wanja Mwaniki. The claimant stated that he purchased ½ acre from the exparte applicant. It is clear the transaction between complainant and the proprietor of land is that of seller and buyer of land. That is a contract which can only be enforced by regular civil courts. The Tribunal has no jurisdiction to enforce such deals.

On the side of 2<sup>nd</sup> Respondent who was represented by A.P. Kariithi Advocates. The objections are that the application does not follow the laid down procedure. That the application to obtain leave for this application was irregular and 6 months had already expired since the award was made. The argument is that the Respondent went to Tribunal regarding the occupation of the land in question and that the Tribunal did what was right. On taking consideration of all the facts on both sides, firstly the jurisdiction of the High Court in Judicial review is to supervise the Tribunals to ensure they are operating within the laws as appointed. In this case the Tribunal is not empowered to deal with registered land or to enforce contractual obligations of parties. Therefore the decision they made in this case is outside the jurisdiction conferred upon the Tribunal and for that reason their decision has to be set aside. The court exercising its jurisdiction of judicial review is concerned in the decision making process of the statutory body. It is not concerned that the Tribunal may have not issued correct decision. The court is not also to decide disputes of ordinary claimants but to inspect the manner the tribunal has conducted the proceedings.

For these reasons the application is allowed and orders granted as prayed. Each party to pay its own costs.

Dated this 6<sup>th</sup> June of 2006.

**J.N. KHAMINWA**

**JUDGE**

**6/6/2006**

**Khaminwa –Judge**

**Njue CC**

**Ms Wairimu**

**Ms Njeru**

**Ruling read in their presence in open court.**

**J.N. KHAMINWA**

**JUDGE**