



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

**Civil Appeal 85 of 2002**

*(Appeal from the decision of the Western Provincial Land Disputes Appeal Committee in case No.149 of 2001)*

**PETER OKOLI MEYA ..... 1<sup>ST</sup>  
APPELLANT**

**LOICE NYAPUNYI ..... 2<sup>ND</sup>  
APPELLANT**

**V E R S U S**

**JACKSON OKOLI TSIMANGO ..... 1<sup>ST</sup>  
RESPONDENT**

**WESTERN PROVINCIAL LAND DISPUTES APPEAL COMMITTEE ..... 2<sup>ND</sup>  
RESPONDENT**

**J U D G M E N T**

The two appellants, *PETER OKOLI MEYA* and *LOICE NYAPUNYI* were the claimants in case No.21 of 2000 in Butere District Land Disputes Tribunal while the 1<sup>st</sup> Respondent was the defendant. The record does not show the members of the tribunal who sat nor is a copy of the decision attached.

In the appeal No.149/01 filed in Kakamega Provincial Appeals Tribunal, three members sat and made a decision that Jackson Okoli Tsimango, the 1<sup>st</sup> Respondent herein, was the title holder (presumably of the land in dispute) and was “given the land on this basis.” The appeal before the Appeals Committee was allowed, hence this appeal. No where was the title to the land indicated.

The appellants, aggrieved by the decision of the Appeals Committee, challenged it in the 5 grounds of appeal, inter alia, on the premise that the Committee adopted a defective procedure and in not observing the law.

The Appeals Committee did not give reasons for its decision as required by section 8 (7) of Act 18 of 1990. It alluded to a report by elders on which it based its decision. But the report was not made part of the record. The names of the elders who compiled the report were not disclosed either.

Moreover, the record made by the Appeals Committee does not show that each party was given an opportunity to state his case as required by section 8 (7) of the said Act.

For these reasons, I find merit in the appeal. I allow it. The decision of the Appeals Committee is set aside for these reasons and also because the Appeals Committee appears to have acted beyond its jurisdiction by making a decision regarding title to land. If the decision of Butere Land Disputes Tribunal

related to title to land, it too was ultra vires, section 3 (1) of Act 18 of 1990.

Each party shall bear its own costs.

*Delivered, dated and signed at Kakamega this 19<sup>th</sup> day of October, 2006.*

**G. B. M. KARIUKI**

**JUDGE**