



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

**Misc Appli 68 of 2006**

**ANNE KABOI NJENGA.....APPLICANT**

**V E R S U S**

**LIKUYANI LAND DISPUTES TRIBUNAL.....RESPONDENT**

**A N D**

**PATRICK MUSUNDI KAPURU.....INTERESTED PARTY**

**R U L I N G**

By his ex-parte application dated 6<sup>th</sup> June, 2006 made to this court on 9<sup>th</sup> June, 2006, the applicant, Anne Kaboi Njenga, sought under Rule 1 of Order LIII of the Civil Procedure Rules leave to apply for the order of CERTIORARI to quash the proceedings and award of Likuyani Land Disputes Tribunal dated 2<sup>nd</sup> August, 2005 made in Tribunal case No.4 of 2005 purporting to cancel land title No.179 (sic) which award was forwarded to Kakamega Chief Magistrate Court on 27.1.06 for adoption. The applicant contends that the Likuyani Land Disputes Tribunal had no jurisdiction under the Land Disputes Tribunal Act No.18 of 1990 to hear or determine the dispute as it related to title to land.

On the face of it the applicant appears to have a prima facie case for the grant of leave to apply for certiorari. I observe however that section 9 (3) of the Law Reform Act, Cap 26, requires in the case of an application for an order of certiorari that application for leave be made not later than six months after the date of the judgment, order, decree, conviction or other proceedings or such shorter period as may be prescribed under any law. Whether the award and proceedings sought to be quashed are caught up by section 9 (3) (supra) is open to argument. At this, stage and for my part, I hold the view that the six months limitation of time does not in the circumstances of this application apply although any of the parties is at liberty to canvass the issue during the hearing of the Notice Motion if contrary view is held.

In the result, I grant the applicant the leave sought to apply for an order of certiorari in terms of prayer 1 of the Chamber Summons application dated 6<sup>th</sup> June, 2006. I also order that the leave herein granted shall operate as a stay of the said award in terms of prayer 2 of the said application. Costs of this application shall be in the cause.

*Delivered, dated and signed at Kakamega this 29<sup>th</sup> day of November, 2006*

G.B. KARIUKI

J U D G E