

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

Misc Civ Appli 285 of 2005

REPUBLIC APPLICANT
VERSUS
THE MAKUENI DISTRICT LAND DISPUTE TRIBUNAL
THE EMBU PROVINCIAL LAND APPEALS COMMITTEE
THE KILUNGU RESIDENT MAGISTRATE RESPONDENTS
AND
ONESMUS MUNGUTI KIOKO/... INTERESTED PARTY
MICHAEL MALUA KAVALI
WILLIAM KAKUI MWANIA EX PARTE

R U L I N G

This is an application for leave to file an application seeking the superior orders of certiorari and prohibition. It is properly accompanied by a Statement of Facts and a Verifying Affidavit as required. The notice required to be served upon the Registrar was duly served on 21/10/2005. Perusal of the statement of facts demonstrates that the Ex parte applicant has an arguable case. Under these circumstances, the court has no business denying a citizen access to the court of justice. The leave sought therefore will be granted.

The Ex Applicant also seeks that the leave be ordered to operate as a stay. I have considered the arguments advanced by the applicant for that purpose. I am satisfied that if a stay is not granted the application will come to naught. The court will therefore also grant this prayer. The appropriate orders will therefore be as follows:

ORDERS:

1. Leave to file a Notice of Motion for the specified superior orders is hereby granted.
2. The intended application shall be filed within 21 days.
3. Service of the intended application shall be within 14 days after the filing.
4. The respondents or interested parties so served shall file their responses within 21 days after such service.
5. This leave granted shall operate as stay until this matter is mentioned before this court.
6. Mention of the intended application on 26/1/2006 for further directions.
7. Costs in the main cause.

Dated and delivered at Machakos this 24th day of October 2005

D.A. ONYANCHA

JUDGE