

Mr. Omirera submitted that the provisions of the Land Adjudication Act Cap 284 are not applicable because the land in question is not under an Adjudication Section but governed by Agricultural Act Cap 318 and that the decision made should have been challenged. Counsel did not refer the court to any provisions of the Agricultural Act. This matter had been filed in court vide annexure KM5 – copy of plaint and was withdrawn by consent of the parties on the basis that it fell under the Adjudication Act and it was indeed referred to the Adjudication officer who dealt with the matter and reached a decision annexure KM 4 which was never challenged as to who had jurisdiction. That objection raised by respondents must fail.

I do find merit in the objection raised by interested party as considered above, the application is incompetent and is hereby struck out with costs to respondents and interested party.

Dated, read and delivered at Machakos this day of 2004.

R. V. WENDOH

JUDGE