



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KISII**  
**CIVIL SUIT NO.68 OF 2004**

**KABA NYANGWARA ..... PLAINTIFF**

**VERSUS**

**DAVID OMARE ONDIKO ..... DEFENDANT**

**RULING:**

Mr. Soire raised a preliminary objection and told the court that the parties have a dispute before Nyamaiya Division Land disputes Tribunal over the same land. He therefore prayed the suit be stayed until the dispute is determined.

Mr. Mogire objected stating that the dispute before the tribunal was filed by the defendant in this case.

There is no dispute that the matter is pending before the Tribunal. The issues canvassed in the tribunal are the same. The parties are the same and the parcel of land the same. I concur with Mr. Soire that the Dispute before the tribunal should be disposed off first. The tribunal has powers to deal with the issues raised.

I therefore allow the preliminary objection and order hearing of this suit to be stayed until the dispute before the tribunal is heard and determined. I however order both parties to maintain status quo until then.

It is so ordered.

**Dated 29th July 2004.**

**KABURU BAUNI**

**JUDGE**

**29/7/2004**