



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**CIVIL APPEAL NO 200 OF 1999**

**AMOS NDUTUMO WAINAINA ..... APPELLANT**

**VERSUS**

**CHARLES KARIUKI KIMEMIA ..... RESPONDENT**

**JUDGMENT**

Section 8 of the Land Disputes Tribunals Act 1990 (Act No 18 of 1990) provides for the procedure of appeal from a decision of the Land Disputes Tribunal established under Section 4 of that Act. Section 8 (9) of the Act provides that there is no direct appeal to this court from a decision of that Tribunal. Before one can appeal to this court, he is required by Section 8 (1) to appeal to the Land Disputes Appeals Committee established under Section 9 (1) of the Act for the province in which the land is the subject matter of the dispute is situated. An appeal to this court can only be from the decision of such an Appeals Committee.

In the Amended Memorandum of Appeal filed on behalf of the Appeal, it is stated that the appeal was against the decision of “the Land Dispute Tribunal in case No 660 of 1998 and the Judgment delivered by the Honourable Magistrate Mrs L W Gitari in Civil Case No 49 of 1999 ... confirming the award (of the Tribunal) and the subsequent Ruling ... (refusing stay of execution pending appeal) ...” Consequently, the Appellant sought that “the Tribunal Award and the Honourable Lower Court’s Ruling be set aside and the appeal allowed.”

As can be seen, the appeal is incompetent as the decisions appealed from are not contemplated nor provided for in the Land Disputes Tribunals Act in which the appeal is purportedly based. I, therefore, accept Mr Wandaka’s submission in this respect and order that the appeal is incompetent.

On that conclusion alone, I dismiss the Appellant’s appeal with costs to the Respondent.

**Dated and delivered at Nairobi this 27th day of October, 2004.**

**ALNASHIR VISRAM**  
**JUDGE**