



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAKURU
Civil Suit 125 of 2004

ABDI YASIN KOIKAI.....PLAINTIFF

VERSUS

OLE NAKUYAKI SAMSON & 11 OTHERSDEFENDANTS

RULING

The 1st to 10th defendants raised a preliminary objection to the Plaintiff's suit on the grounds that the suit was misconceived, incompetent and bad in law as it contravened the provisions of Section 28 of the Land (Group Representatives) Act Cap 287. They also said that it contravened the provisions of Section 10 of the aforesaid Act.

Section 28 of the Act states as follows:-

“Where a question arises whether a particular person is a member of a group, a certificate signed by a majority of the group representatives shall be conclusive of the question:

Provided that a person who is aggrieved by the issue of such a certificate may apply to a District Magistrate's Court having jurisdiction in the area to determine the question, and in such a case the determination of the court shall be conclusive.”

Section 10 of the Act relates to settlement of disputes among officers or members of a group ranch and it provides as follows:-

“10(1) If it appears to the Registrar that there has been a dispute among the officers or members of a group so that he is not satisfied as to who are the officers of the group, the Registrar may in writing require the officers of the group to produce to him evidence of either –

(a) the settlement of the dispute and the proper appointment of officers of the group; or

(b) the institution of proceedings for the settlement of the dispute and for a declaration as to who are the officers of the group,

and where he does so the officers shall provide evidence accordingly within the time specified and it shall be signed by at least three of the officers.”

Sub-section (2) thereof gives a District Magistrate's Court jurisdiction to settle disputes and make declarations for the purposes of proceedings instituted under subsection (1)(b) of the Section.

The Plaintiff is a member of Narusura Group Ranch and according to him, the 2nd, 3rd, 4th & 5th defendants are not members. The Plaintiff's claim against the defendants is for an order of injunction to

restrain the 1st to 10th defendants from assuming office as representatives of the said group ranch. He also asks the court to bar the 11th Defendant, who is the District Adjudication and Settlement Officer, Narok District, from registering the 1st to 10th defendants as group representatives.

On the other hand, the 1st to the 10th defendants have stated in their defence that they are all members and officials of the group ranch.

This is the kind of dispute referred to in Sections 10 and 28 of the Act as quoted hereinabove.

It is obvious that the suit violates the aforesaid provisions which expressly confer jurisdiction upon a District Magistrate's Court to determine disputes such as the present.

I have no difficulty in holding that the Plaintiff's suit is bad in law and is filed in a court which has no jurisdiction to hear and determine the same.

I strike out the suit and award costs thereof to the 1st to 10th defendants.

DATED, SIGNED & DELIVERED at Nakuru this 17th day of December, 2004.

DANIEL MUSINGA

AG. JUDGE

17/12/2004