

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KAKAMEGA

CIVIL APPEAL NO. 99 OF 2002

DAVID LEDAMA OLE MURI :::::::::::::::::::: APPELLANT

V E R S U S

NICHOLAS M. WANJALA :::::::::::::::::::: RESPONDENT

J U D G M E N T

The Appeal to this court by David Ledama Ole Muri, the Appellant, was against the decision dated 12-8-2002 made by the appeals Committee in which it (the Appeals Committee) gave the Applicant ½ an acre of the plot of land known as No.741 and dismissed the Plaintiff's/Appellant's claim over the plot of land known as No.1812. The appeal was filed in time. The Appellant in his memorandum of appeal put forward 3 grounds in which he contended that the Appeals Committee had no jurisdiction to make the decision it made, that the appeal to the appeals Committee from the District Land Disputes Tribunal was probably out of time, and that the decision of the Appeals Committee was biased.

During the hearing of the appeal on 6-10-2004, the parties appeared in person. The appellant relied on his grounds of appeal and requested the court to set aside the decision of the Appeals Committee. Nicholas M. Wanjala, the Respondent, submitted that the appeal had no merit and requested the court to dismiss it. It seems both the Appellant and the Respondent had taken their dispute to the LUGARI LAND DISPUTES TRIBUNAL in Tribunal case No.8/2000 in which the said tribunal ruled that:-

“The elders exhaustively heard from both parties and ruled that Mr. Nicholas Mayakula (Respondent herein) should demolish the fence around the shamba and Ladama (the appellant herein) should remain in his plot.” “The party that was not satisfied was allowed to appeal to Provincial Land Tribunal within 30 days w.e.f. today.”

It seems this decision by the Tribunal did not go outside the ambit of its jurisdiction under Section 3 of Act 18 of 1990 (Land Disputes Tribunals Act 1990) There is no merit in the appeal and the same is dismissed with no order as to costs.

Dated at Kakamega this 3rd day of December, 2004.

G. B. M. KARIUKI

J U D G E