



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**MISC. APPL. NO. 298 OF 2001**

**STANLEY KARIUKI NJAU & ANOTHER ..... PLAINTIFFS**

**VERSUS**

**WANJIRU M. KARIUKI & 2 OTHERS .....DEFENDANTS**

**J U D G E M E N T**

It is now settled law that the Land Disputes Tribunal Act as its predecessor, the famous S. 9A to F of the Magistrate's Court Act, that elders do not have jurisdiction to deal with beneficial ownership of registered land.

In this case, the interested parties/respondents claim for a right to a portion of land known as L.R NO.GITHUNGURI/KIMATHI/248 previously registered in the name of the 1st Applicant, Stanley Kariuki Njau but now in the name of the 2nd applicant Wanjiru Kariuki as the respondents, Wanjiru Kariuki and Samuel Mungai Kariuki, are wife and son respectively and thereby entitled to a portion of the suit premises. At paragraphs 8 and 9 of the reference to the Tribunal, the respondents contend that the suit premises had been transferred to the 2nd applicant in 1994 rendering them landless and that the tribunal should visit and divide the land equally between the 1st respondent's house and the 2nd applicant's house.

Mr. Njau for the applicant submitted that the Act only conferred jurisdiction on Tribunal where division of unregistered land, determination of boundaries or trespass to land were in issue. Consequently as in his view, the claim is for a portion of land registered under the Registered Land Act, it is not a matter within the jurisdiction of a tribunal under the Act and the tribunal would be acting without or in excess of its jurisdiction if it were to continue hearing this dispute.

Mr. Agolla for the respondent however contends to the contrary. In his view the claim presented to the Tribunal was for working on a family land under customary law and as such the Tribunal had jurisdiction.

As can be seen from the claim, the claim before Tribunal does not complain that the respondents do not have a portion to cultivate. What they are complaining about is that the whole land had been transferred into the name of the second applicant and that it should be subdivided. To my mind what this clearly means is that the respondents also want a portion of the land to be registered in their names, a matter which the Tribunal lacks jurisdiction to entertain. Indeed the Tribunal's award is that the respondents were to get 2 acres of the land and ordered the Land Registrar to revoke the 2nd applicants title, subdivide the land and transfer 2 acres to the 1st respondent, and the court Executive Officer to sign.

In view of the above, I allow this application as prayed. As this is a family dispute and as my contribution to family reconciliation. I make no order as to costs. Orders accordingly.

Dated and signed at Nairobi this 31st day of January, 2002.

**G.P. MBITO**

**JUDGE**

31.10.2002

Coram : Mbito, J

Njau for applicants

Nil for respondents

Mr. Shah for Attorney General

Mwai – Court clerk

**ORDER**

Read, signed and delivered.

**G.P MBITO**

**JUDGE**