

IN THE HIGH COURT OF KENYA AT NAIROBI

MISC. APPLICATION NO. 317 OF 2001

SAMUEL NJUGUNA NDUGUTI APPLICANT

VERSUS

KIAMBU DISTRICT LAND DISPUTES RESPONDENT

R U L I N G

Applicant seeks leave to apply for an order of certiorari to quash the decision of Kiambu District Land Dispute Tribunal dated 23.1.2001. Applicant also applies for leave to apply for an order of prohibition to prohibit the Resident Magistrate Githunguri from reading/confirming and or enforcing the Award made by the Land Disputes Tribunal on 23.1.2001. Applicant also prays that the grant of leave do operate as a stay of the orders of the Land Disputes Tribunal are of the Resident Magistrate Githunguri. By paragraph 5 of the applicants affidavit sworn on 6.8.2001, the Resident Magistrate Githunguri confirmed and adopted the award of the Land Disputes Tribunal on 5.7.2001 but stayed execution for 30 days. By the Board the Land Dispute Tribunal in effect revoked the original title for parcel No. Githunguri/Ikinu/2100 and the subsequent sub-titles for parcel Nos. Githunguri/Ikinu/2675 and 2676. Applicants complaints that the Land Dispute Tribunal had no jurisdiction to make such orders by virtue of S.3(1) of the Land Disputes Tribunal Act – 1990.

In view of the limited jurisdiction given to the Land Disputes Tribunal by S.3(1) of the Land Disputes Tribunal Act the intended application is not frivolous and applicant is entitled to leave. In respect of the intended application for order of prohibition, the award was read and confirmed on 5.7.2001 but it is not clear whether or not the decision of the court has been enforced. The order of stay limited to staying any further proceedings should be granted.

I allow the application with costs in the cause in the intended application. I grant leave to apply for orders of certiorari and prohibition. I order that the grant of leave do operate as a stay of any further proceedings of the Resident Magistrate's court Githunguri.

E.M. GITHINJI
JUDGE
6.11.2001

Mr. Mburu for applicant present.