

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

H.C.C.C. MISC. APPLICATION NO. 63 OF 2000

AMOS MATHIAS MNGENYI..... APPLICANT

V E R S U S

**THE CHIEF MAGISTRATE'S COURT MILIMANI NAIROBI.....
RESPONDENT**

R U L I N G

The ex parte applicant Amos Mathias Mngenyi seeks Orders of certiorari to remove into this High Court and quash the decision and order of the Chief Magistrates Court, Milimani, given on 30/9/1999 in the Civil Suit EJ597 of 1994.

He also seeks orders of production prohibiting the said magistrate from hearing or continuing to hear the aforesaid Civil Suit EJ 597/94 or making any further orders therein.

During the proceedings of the said case an ex parte judgment had been entered against the ex parte. He sort for orders to set them aside but this was declined. None of the parties were heard.

The ex parte applicant sort a judicial review on the grounds that the magistrate had no preliminary jurisdiction to hear the suit nor was heard, The initial sum was about Kshs.300,000/= and the amount to be executed was about Kshs.800,000/=. The magistrates jurisdiction being Kshs.10,000/=.

The decision for refusal to set aside the ex parte orders without being heard was made.

The preliminary jurisdiction being Kshs.10,000/= the trial magistrate was not permitted to deal with the case.

I note that the applicant could have appealed against the decision of the magistrate. He chose to come in by way of judicial review. I am satisfied that this is an appropriate order to make. I hereby allow the said relief sort.

Dated this 15th day of June, 2000 at Nairobi.

M. Ang'awa

JUDGE