



**Republic v District Land Adjudication Officer Tigania West Sub County & another;
M’Ringene (Ex parte Applicant); M’Igweta (Interested Party) (Environment and Land
Judicial Review Case E002 of 2025) [2025] KEELC 4919 (KLR) (30 June 2025) (Ruling)**

Neutral citation: [2025] KEELC 4919 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT AND LAND JUDICIAL REVIEW CASE E002 OF 2025**

BM EBOSO, J

JUNE 30, 2025

BETWEEN

REPUBLIC APPLICANT

AND

**THE DISTRICT LAND ADJUDICATION OFFICER TIGANIA WEST SUB
COUNTY 1ST RESPONDENT**

HON ATTORNEY GENERAL 2ND RESPONDENT

AND

JOSPHAT NKARICHIA M’RINGENE EX PARTE APPLICANT

AND

CHRISTINE MUKONENE M’IGWETA INTERESTED PARTY

RULING

1. The subject of this ruling is the ex-parte applicant’s chamber summons dated 2/4/2025. Through it, the ex-parte applicant seeks leave of the court to bring a substantive motion for the following judicial review orders; (i) an order prohibiting the respondents against enforcing, compelling (sic), executing and/or taking any action towards realization, enforcement and execution of the decision of the District Land & Adjudication Officer, Tigania West Mbwa 1; (ii) an order of certiorari removing into this court and quashing the decision of the District Land & Adjudication Officer, Tigania West Mbwa 1.
2. The application was premised on the grounds outlined in the chamber summons; in the statutory statement of facts dated 2/4/2025; and in the ex-parte applicant’s verifying affidavit dated 2/4/2025. The case of the ex-parte applicant is that he was a defendant/respondent in Adjudication Dispute No. M/R 436193 relating to land parcel number 1690/38 Mbwa 1 Adjudication Section. The Committee



rendered a decision in which it awarded the ex-parte applicant one (1) acre and similarly awarded the interested party one (1) acre. Being dissatisfied with the above decision of the Committee, he lodged an appeal against the above decision through Appeal M/R No. 4509225. The said appeal, M/R 4509225, is pending disposal.

3. The ex-parte applicant contends that on 27/2/2025, his wife was served with summons to appear for “ground visit on 28/2/2025, supposedly to assist in resolution of an adjudication registry query. He states that, indeed, officers visited the land to “adjudicate the entire 2 acres to the interested party” despite the fact that the impugned decision had awarded the interested party only one acre.
4. The court has considered the application. The single question to be answered in this ruling is whether a case has been made out to warrant grant of leave to the ex-parte applicant to initiate judicial review proceedings for orders of certiorari and prohibition relating the decision of the District Land and Adjudication Officer, Tigania West, Mbwa 1, made in Appeal M/R No. 4509225.
5. The purpose of leave under Order 53 of the Civil Procedure Rules was explained by Waki J. (as he was then) in *Republic v County Council of Kwale & another ex-parte Kondo & 57 others HCMCA No. 384 of 1996* as follows:

“The purpose of application for leave to apply for judicial review is firstly to eliminate at an early stage any applications for judicial review which are either frivolous, vexatious or hopeless and secondly to ensure that the applicant is only allowed to proceed to substantive hearing if the Court is satisfied that there is a case fit for further consideration. Leave may only be granted, therefore, if on the material available the court is of the view, without going into the matter in depth, that there is an arguable case for granting the relief claimed by the applicant, the test being whether there is a case fit for further investigations at a full inter parties hearing of the substantive application for judicial review. It is an exercise of the court’s discretion but as always it has to be exercised judicially.”

6. The plea for leave targets the decision in an appeal described as M/R No. 4509225. The said decision was not exhibited by the ex-parte applicant. What was exhibited were the proceedings and the decision in Adjudication Committee Case No. M/R C4361693 which the ex-parte applicant contends culminated in Appeal No. M/R 4509225. Without evidence relating to the existence of the alleged decision, the court is not sure that the impugned decision exists.
7. Secondly, the ex-parte applicant was unequivocal in his pleadings that Appeal Number M/R No.4509225 is still pending disposal. His advocate contradicted the pleadings by stating orally in court that the appeal was disposed by the Minister. The alleged decision of the Minister was not exhibited.
8. A litigant is bound by his pleadings. The ex-parte applicant having unequivocally stated in his pleadings that Appeal No. M/R No. 4509225 is pending disposal, the court takes that as the position of the ex-parte applicant. Based on the pleadings before court, it is clear that the plea for leave to initiate judicial review proceedings has been brought prematurely. The ex-parte applicant should exhaust the appeal mechanism by prosecuting his pending appeal and procure a determination of the appeal before initiating judicial review proceedings.
9. For the above reasons, the plea for leave under Order 53 of the Civil Procedure Rules, at this point, is declined and dismissed. Bearing in mind the fact that the interested party did not file grounds of opposition, there will be no award of costs.

DATED SIGNED AND DELIVERED AT MERU THIS 30TH DAY OF JUNE 2025

B M EBOSO [MR]



JUDGE

In The Presence Of

Court Assistant – Mr. Tupet

