



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT MERU**

**JUDICIAL REVIEW APPLICATION NO. 13 OF 2019**

**IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR ORDERS OF JUDICIAL REVIEW ORDER OF CERTIORARI AND PROHIBITION**

**AND**

**IN THE MATTER OF SECTIONS 8 AND 9 OF THE LAW REFORM ACT CAP 26 OF THE LAWS OF KENYA**

**AND**

**IN THE MATTER OF THE ORDER 53 RULE 1 AND 2 OF THE CIVIL PROCEDURE RULES**

**AND**

**IN THE MATTER OF OBJECTION NUMBER 3586 FOR THE LAND PARCEL NO. 187 & 15454 IN KARAMA ADJUDICATION SECTION**

**AND**

**IN THE MATTER OF LAND PARCEL NO. 187 AND 15454 KARAMA ADJUDICATION SECTION**

**REPUBLIC.....APPLICANT**

**VERSUS**

**THE DISTRICT LAND ADJUDICATION AND SETTLEMENT**

**OFFICER (DLASO) TIGANIA EAST SUBCOUNTY.....RESPONDENT**

**AND**

**PETER KABURUTO KINATHI..... INTERESTED PARTY**

**SOLOMON KUBAI MUGWIKA.....EXPARTE APPLICANT**

**JUDGMENT**

1. On 1/7/2019 the ex-parte applicant a filed chamber summons seeking leave to apply for Judicial Review orders of certiorari quashing the decision and/award of the respondent in Objection Number 3586 of Karama Adjudication Section as the same was reached in breach of the rules of natural justice, and an order of prohibition stopping the respondent and interested party from implementing the decision of the respondent delivered on 8/3/2019 in regard to land parcel no. 187 and 15454 Karama Adjudication Section. The applicant also prayed that leave so granted do operate as a stay of the aforementioned decision. He also sought for costs.

2. The chamber summons application was allowed on 17.7.2019, of which the exparte applicant was to file and serve the substantive motion within 21 days. It appears that this order was not complied with. In his submissions, the exparte applicant contends that he presented the substantive motion on 26.9.2019. However, no such application can be found in the court file. What was filed by the exparte applicant is the statement of facts and the verifying affidavit. In any event any application presented after the date of 7.8.2019 (the 21 days period from 17.7.2019) would be in contravention to the provisions of order 53 rule 3 of the Civil Procedure Rules.

3. In the final analysis, I find that there is no suit before me for determination. This matter is therefore dismissed with costs to the interested

party.

**DATED, SIGNED AND DELIVERED AT MERU THIS 16<sup>TH</sup> DAY OF SEPTEMBER, 2020**

**HON. LUCY. N. MBUGUA**

**ELC JUDGE**

**ORDER**

The date of delivery of this Judgment was given to the advocates for the parties through a virtual session via Microsoft teams on 25.6.2020. In light of the declaration of measures restricting court operations due to the *COVID-19 pandemic* and following the practice directions issued by his Lordship, the Chief Justice dated 17<sup>th</sup> March, 2020 and published in the Kenya Gazette of 17<sup>th</sup> April 2020 as Gazette Notice no.3137, this Judgment has been delivered to the parties by electronic mail. They are deemed to have waived compliance with order 21 rule 1 of the *Civil Procedure Rules* which requires that all judgments and rulings be pronounced in open court.

**HON. LUCY N. MBUGUA**

**ELC JUDGE**