



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MACHAKOS

CIVIL CASE NO. 181 OF 2011

IN THE MATTER OF JUDICIAL REVIEW UNDER ORDER 53(1),(2), (3) & 4 OF THE CIVIL PROCEDURE (REVISED) RULES, 2010, SECTION 27, 28 & 143 OF THE REGISTERED LAND ACT, CAP 300 SECTIONS 3, 8 & 9, LAND DISPUTE TRIBUNAL ACT NO. 18 OF 1990, ALL OF THE LAWS OF KENYA FOR LEAVE AND STAY TO APPLY FOR ORDERS OF CERTIORARI, MANDAMUS AND PROHIBITION

AND

IN THE MATTER OF LEAVE AND STAY OF THE RULING/AWARD DELIVERED ON 15TH JUNE, 2011 AND THE NOTICE DATED 24TH JUNE, 2011, AGAINST THE APPELLANT AND IN FAVOUR OF THE RESPONDENT IN THE MATTER PERTAINING TO ALL THAT PARCEL OF LAND KNOWN AS LAND REFERENCE NUMBERS KAJIADO/OLORNGOSUA/27 AND KAJIADO/OLORNGOSUA/1585 LEGALLY AND ABSOLUTELY REGISTERED IN THE NAMES OF DAVID LETURA KISIPAN AND CRISPUS KISIPAN RESPECTIVELY AND WHOSE DECISION IS LIKELY TO ADVERSELY AFFECT THEM THEREOF

AND

IN THE MATTER OF AN APPLICATION BY THE APPLICANT
ELIZABETH KISIPAN LETURA.....APPLICANT

VERSUS

DANIEL KISHIL LETURA.....RESPONDENT

RULING

1. The notice of motion dated **7th August, 2012** is brought pursuant to the provisions of **Section 3, 3A and 63** of the **Civil Procedure Act**.
2. In the application, this court has been asked to give directions that the orders granted on the **15th July, 2011** are no longer subsisting.
3. The application is premised on the ground that court orders granted on the **15th July, 2011** have lapsed and/or have never been extended by the applicant and it is in the interest of justice that directions be given as to the existence of the court order.

4. In an affidavit in support of the application **Elizabeth Letura Kisipan** the 6th respondent states that following an application for leave to apply for *certiorari* and *prohibition* on the **15th July, 2011** the court granted an order of stay of the ruling/award delivered on the **11th June, 2011** and the notice dated **24th June, 2011**. The applicants have not appeared in court to extend the order and the applicant/6th respondent is desirous to have the ruling and award adopted as the judgment of the **Principal Magistrate's Court, Kajiado**.

5. The application is unopposed.

6. I have perused the record. This matter came up on the **7th March, 2013**. Counsel for the applicant, **Mr. Onyancha** notified the court that it was a land matter. He sought an order to have it transferred to **Nairobi Environment and Land Court** which would ordinarily be seized of jurisdiction to hear such a case. The order was however not made because the respondent had not been notified of the hearing date. Thereafter the applicants fixed it for hearing but notice having not been issued no direction would issue.

7. Consequently, this court cannot purport to give directions sought by the applicant/6th Respondent. The applicant is directed to take a date for mention when directions can be made transferring the matter to the Environment and Land Court.

8. It is so ordered.

DATED, SIGNED and DELIVERED at MACHAKOS this 1ST day of JULY, 2014.

L.N. MUTENDE

JUDGE