



REPUBLIC OF KENYA

IN THE LAND AND ENVIRONMENT COURT AT CHUKA

MISC.JUDICIAL REVIEW APPLICATION NO.....E1...OF 2020

IN THE MATTER OF AN APPLICATION BY PHARES MUGAMBI FOR LEAVE TO COMMENCE PROCEEDINGS FOR AN ORDER OF CERTIORARI AND PROHIBITION

AND

IN THE MATTER OF ARTICLE 23(3) (F) , 40,48 & 50 OF THE CONSTITUTION OF KENYA

AND

IN THE MATTER OF FAIR ADMINISTRATIVE ACTION ACT, 2015

AND

IN THE MATTER OF LAND PARCEL NO 106 MAREMBO/RIANTHIGA ADJUDICATION SECTION

AND

IN THE MATTER OF AN APPEAL TO THE MINISTER IN CHARGE OF LANDS AND PHYSICAL PLANNING CASE NO, 24 OF 2018

AND

IN THE MATTER OF THE LAND ADJUDICATION ACT CAP 284 LAWS OF KENYA

AND

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

BETWEEN

REPUBLIC.....APPLICANT

VERSUS

THE CABINET SECRETARY

MINISTRY OF LANDS & PHYSICAL PLANNING.....1STRESPONDENT

THE DIRECTOR OF LAND ADJUDICATION & SETTLEMENT.....2ND RESPONDENT

THE CHIEF LAND REGISTRAR.....3RD RESPONDENT

THE ATTORNEY GENERAL OF KENYA.....4TH RESPONDENT

AND

RAUNI NKARI.....INTERESTED PARTY

EXPARTE APPLICANT: PHARES MUGAMBI

RULING

1. This application has been brought to court pursuant to Order 53 Rules 1 and 2 of the Civil Procedure Rules and seeks orders

1.THAT leave do issue for the Applicant to apply for;

a) An order of Certiorari to remove to this Honourable Court and quash the decision, and/or award by the 1st Respondent in respect of **land parcel no 106 MAREMBO/RIANTHIGA** Adjudication Section in minister Appeal Case No 24 of 2018 between RAUNI NKARI and PHARES MUGAMBI contained in the ruling dated **01.09.2020** awarding to RAUNI NKARI the INTERESTED PARTY All the Disputed Land.

b.) An Order of PROHIBITION, prohibiting the 2nd and 3rd Respondents from; altering the duplicate adjudication register to conform with the decision of the 1st respondent, nor certify on the duplicate adjudication register that it has become final in all respects , nor send details of the alterations and a copy of the certificate to the 4th Respondent for alteration of the Adjudication register and or in any manner effect the decision contained in the ruling dated 01.09.2020.

c.) The leave granted Herein do operate as a stay of the decision of the 1st Respondent contained in the ruling dated 1st of September 2020.

d.) Costs of the Application be provided for.

2. When the matter was heard exparte Miss Ngige holding brief for Mr Momanyi, the applicant's advocate, told the court that the applicant was on the verge of being evicted from his family land unless preservative orders were issued. She also asked the court to give directions on how the matter should be heard.

3. Having perused the pleadings, I find that the application evinces justiciable merit.

4. In the circumstances, the following orders are issued:

a) Leave is granted for the applicant to apply for Judicial Review orders in terms of prayers 1(a) and 1(b) of this application.

b) Prayer 1(c) in the application is granted herein and operates as a stay of execution of the 1st respondents' decision contained in the ruling dated 1st September, 2020.

c) The orders issued today by this court are to be served upon the respondent within 7 days of today.

d) Parties will come to court for directions on **23rd November, 2020**.

Written and delivered in open Court this **26th day of October, 2020** in the presence of:

CA: Ndegwa

Miss Ngige h/b Momanyi for the Applicant

P. M. NJOROGE,

JUDGE.