



**REPUBLIC OF KENYA**

**High Court at Mombasa**

**Miscellaneous Civil Application 8 of 2012**

**IN THE MATTER OF: LAND DISPUTE TRIBUNAL ACT**

**IN THE MATTER OF: THE PRINCIPAL MAGISTRATE'S COURT AT KWALE**

**IN THE MATTER OF: AN APPLICATION BY REUBEN CHILEMBI MWAKUDZA FOR  
ORDERS VESTING 5.0 HECTAES INTHE PARCEL OF LAND KNOWN AS TITLE NO.  
KWALE MNANAZINI/124 OCCUPIED BY THE APPLICANT**

**BETWEEN**

**REUBEN CHILEMBI MWAKUDZA ..... APPLICANT**

**AND**

**MUMBA CHIMBUNDUGO ..... IST RESPONDENT**

**CHIROTO CHIMBUNDUGO ..... 2ND RESPONDENT**

**NDEGWA CHIMBUNDUGO .....3RD RESPONDEN**

**RULING**

The application herein is dated 31/5/2002 whereby the application seeks for a vesting order against the defendant in respect of 5.0 hectares of the piece of land known as Kwale Mnanazini/124 and costs for this application.

The plaintiff avers that on or around the year 1987, he bought the shamba of the respondent's father for a consideration of Kshs. 28,800. The land was about 12 acres.

The applicant obtained Land Control Consent for that transaction on 8.12.93. Before applicant's father could transfer the said piece of land he died in 1995. The applicant then

learnt the respond therein would inherit his father's piece of land. he approached him and with the help of the Chief the respondent agreed to do so but later refused. The applicant then filed a dispute in the Lunga Lunga Disputes Tribunal under the provisions of Act No. 18 of 1980 (now repealed.) The case was heard and determined on 31.8.2009 and the land was awarded to the applicant herein.

Thereafter, the applicant filed a case, Land Case No. 13 of 2009 in the Kwale Magistrate's Court to confirm that Award. The Award was adopted as the Order of the Court on 21/5/2009.

Under the provisions Act 18 of 1990(now repealed) any party who was aggrieved by the Order of the District Tribunal could appeal to the Provincial Land Appeals Tribunal and then to the High Court but only on a point of law.

No appeal seems to have been preferred at all and that is presumably why the matter was set down for confirmation before the Principal Magistrate's Court, Kwale once the 30 days provided for such appeal expired.

All the necessary consents having been sought and granted and the time for all other avenues for appeal having expired, the door is unfortunately, tightly closed on the respondent. The applicant is well within his right to ask for vesting order. The beneficial interest of the suit property has vested in him. He cannot be denied. I grant the vesting order to him as prayed. There shall be no orders as to costs.

**S.N. MUKUNYA  
JUDGE**

**2.5.2013**

**DATED and delivered at Mombasa this 2nd day of May 2013**

In the presence of:  
Mema for applicant

Non appearance for respondent