



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MERU**  
**MISC. APPLICATION NO. 191 OF 2004**

**KINUGU M'TUARUCHIU.....APPLICANT**

**VERSUS**

**JOHN M'IMPWII M'MUTHURI.....1ST RESPONDENT**

**MERU CENTRAL LAND DISPUTES TRIBUNAL.....2ND RESPONDENT**

**THE CHIEF MAGISTRATE MERU LAW COURTS.....3RD RESPONDENT**

**RULING**

The applicant herein was on 25.1.2005 granted leave to apply for an Order of certiorari to remove to the High Court and quash the award made on 15.6.2004 in Meru Central District Land Disputes Tribunal Case No.52 of 2004 and read in Court on 7th September, 2004 vide Meru Chief Magistrate Land Dispute Tribunal Case No. 78 of 2004. The application is dated 22.9.2004.

This application was predicated upon the grounds and matters set out in the statutory statement listed the grounds upon which relief was sought as:

**1. The Land Disputes Tribunal has no jurisdiction to entertain,**

**hear or determine in any way issues relating to ownership or possession of land registered under the Registered Land Act (Cap.300).**

**2. The Land in issue is ABOTHUGUCHI/L-KAONGO/175 and is registered under Cap. 300 and as such outside the jurisdiction of the Land Disputes Tribunal Act No. 18 of 1990.**

**3. The award in Meru Central District Tribunal Case No.52 of 2004 and read vide Meru CM LDT No.78 of 2004 is erroneous unlawful, illegal and therefore null and void for all intents and purposes.**

At the hearing it was argued for the applicant that the Land Disputes Tribunal proceeded ultra-vires the Land Disputes Tribunal Act (Cap 303A) and for that reason its award should be quashed.

The advocate for the 1st respondent submitted that the suit should be heard to its conclusion so that its merits could be established instead of applying technicalities to perpetuate injustice. He did not dispute the submissions of the applicant that the Tribunal lacked jurisdiction.

The advocate for the second and third respondents said that he was supporting the orders sought by the applicant as in his view the Tribunal lacked jurisdiction to deal with

land registered under the Registered Land Act (Cap 300).

I will now address the issue of jurisdiction.

In **Motor Vessel “Lillian” Vs Caltex Oil Kenya Ltd (1989) KLRI**, Nyarangi J. A, opined:

**“The jurisdiction is everything. Without it, a Court has no power to make one more step. Where a Court has no jurisdiction there would be no basis for a continuation of proceedings pending other evidence. A Court of Law downs its tools in respect of the matter before it the moment it holds the opinion that it is without jurisdiction”**

The reasoning that jurisdiction is everything has been embraced in **Ali Abdi Sheikh Vs Edward Nderitu Wainaina and 3 others, HCCC No. 556 of 2009.**

Upon examination of the apposite law, I find that the Meru Central District Lands Tribunal lacked jurisdiction. As to whether lack of jurisdiction can be cured by Article 159(2) d of the Constitution and Section 19 (1) of the Environment and Land Act which address the issue of procedural technicalities, I find that Jurisdiction is not a procedural technicality.

In the circumstances, I will allow this application. The award of the Meru Central District Land Disputes Tribunal in Case No.52 of 2004 and read in Court on 7th September 2004 vide Meru Chief Magistrates Land tribunal Case No. 71 of 2004 is removed to this Court and is hereby quashed.

I award costs to the applicant.

It is so ordered

**DATED, SIGNED AND DELIVERED in Open Court this 9th day of July, 2013 in the**

**presence of:**

**Muthomi J. h/b Riungu for Exparte Applicant**

**Carl Peters Mbaabu h/b Mburugu for 1st Respondents**

**Ag. On record for 2nd and 3rd Respondents – Present**

**P. M. NJOROGE**

**JUDGE**