



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT KERICHO

MISC. CIVIL APPLICATION NO. 8 OF 2011

FRANCIS KIPKOSKE BIEGON.....APPLICANT

AND

AINAMOI LAND DISPUTES

TRIBUNAL.....1ST RESPONDENT

CHIEF MAGISTRATE,

KERICHO.....2ND RESPONDENT

**THE PROVINCIAL LAND DISPUTES APPEALS
TRIBUNAL, RIFTVALLEY**

PROVINCE.....3RD RESPONDENT

RULING

The Applicant, **FRANCIS KIPKOSKE BIEGON**, has in his *ex-parte* Chamber Summons application dated 7/2/2011 sought leave under **Order 53 Rule 1** of the **Civil Procedure Rules** to apply for an **order of certiorari** to remove into this Court for quashing the decision dated 21/9/2010 made by the 3rd Respondent, the Appeals Committee of Rift Valley Province, and the award dated 19/2/2010 made by the 1st Respondent, Ainamoi Land Disputes Tribunal and the decision of the 2nd Respondent, the Chief Magistrate Court, dated 26/4/2010.

I have perused the said Chamber Summons application and the Statement of facts as well as the Verifying affidavit filed herein and I have considered the submissions made by Mr. W. R. Kiprono, the learned Counsel for the applicant.

I am satisfied that the applicant has made out a sufficient case to warrant the grant of the leave sought not least because the decisions of the 1st and 3rd Respondents were made outside the plenitude of the powers conferred by **Section 3** of the **Land Disputes Tribunals Act 18 of 1990** and on the face of it they seem clearly ultra vires the powers of the said tribunals.

Pursuant to **Order 53 Rule 1** of the **Civil Procedure Rules**, I accordingly allow the application and grant the applicant leave to apply to this Court for the order of certiorari as prayed for in the application. In pursuance with **Rule 3 of Order 53** of the **Civil Procedure Rules**, I direct that a Notice of Motion shall be filed within 21 days from today and shall within 14 days of filing be served upon the Respondents and all those who may be affected by it.

I also order that the leave herein granted shall operate as a stay of the decisions and proceedings sought to be quashed and in particular the court decision in Kericho SPMC MISC APP. NO. 20 of 2010 until the Motion is heard and determined or until further orders of this Court. If the Motion is not filed as herein ordered, the stay herein ordered shall lapse.

The Notice of Motion, if filed, shall be mentioned on 6/6/2011 at 9.00am.

I direct that seven days prior to the mention on 6/6/2011, the applicant herein shall file an affidavit showing the names of those served with the Notice of Motion, the places of service and the times when serve was effected. If any party who ought to be served is not served, the affidavit shall state the reasons for the failure to serve.

DATED at KERICHO this 2nd Day of MARCH, 2011

G B M KARIUKI, SC
RESIDENT JUDGE

COUNSEL APPEARING

Mr. W. R. Kiprono, Advocate, for the Applicant

Mr. N. Bett, Court clerk