



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)**

Civil Appeal 39 of 2000

GIKUNI MUNIU “B”APPELLANT

VERSUS

JANE WAIRIMU ROBE RESPONDENT

JUDGMENT

This is an appeal from the decision of the Central Province Provincial Land Disputes Appeals Committee dated 1st December, 1999 upholding the decision of the Kiambu Land Dispute Tribunal that apportioned land between the parties as follows:-

1. Githunguri/Gathangari/12

Jane Wairimu Robe: 0.50 acres

Gikuni Muniu 0.70 acres

2. Land No. Githunguri/Gathangari/859

Jane Wairimu Robe 0.60 acres

Gikuni Muniu 0.51 acres

3. Githunguri/Gathangari/12 to remain the property of the Appellant.

The Respondent is the wife to the Appellants brother) (Now deceased). The dispute borders on ownership of land. The Respondent claims her husband’s share in family property namely Githunguri/Gathangari/12 and her husband’s share Githunguri/Gathangari/859, she claims that her deceased husband contributed Kshs.800/= and the objector Kshs.600/= of the purchase price of Kshs.1,400/= in 1960.

In its decision the Kiambu District Tribunal divided the parcel of land between the parties. The Appellant preferred an appeal to the provincial Land Disputes Appeals Committee (Central Province). He lost the appeal as the Provincial Land Dispute Appeal Committee upheld the decision of the Land Disputes Tribunal.

The Appellant being dissatisfied with the decision of the Central Province Provincial Appeals

Committee has preferred this appeal to the High Court pursuant to The Land Disputes Tribunal Act S.8.

The Law requires that the High Court should only entertain the appeal where matters of Law have been raised.

There are 2 issues of Law raised in this appeal. That the Land Dispute Tribunal & The Provincial Appeals Committee erred in failing to appreciate that none of them had jurisdiction to entertain the subject matter under Section 3(1) of the Land Disputes Act 18 of 1990 & Section 27 and 28 of the Registered land Act Cap 300 of the Laws of Kenya.

Section 159 of the Registered Land Act as read with Section 3(1) of the land Disputes Tribunal confer jurisdiction to determine disputes as to title to the courts.

Section 159 of Cap 300 provides:-

“Civil suits and proceedings relating to the title to or the possession of land, or to the title to a lease or charge registered under this Act, or to any interested in the Land, lease or charge, being an interested which is registered or registerable under this Act, or which is expressed by this Act not so require registration, shall be tried by the High Court and, where the value of the subject matters in dispute does not exceed Twenty Five Thousand Pounds by the Resident Magistrate’s Court, or where the dispute comes with the provisions of part IIIA of the Magistrate’s Court Act , in accordance with that part.”

S. 3(1) says-

“Subject to this Act, all cases of Civil nature involving a dispute as to-

- (a) The division of, or the determination of boundaries to land including land held in common,*
- (b) A claim to occupy or work land; or*
- (c) Trespass to land, shall be heard and determined by a tribunal established under Section 4.”*

The 2nd issue raised is that the panel was not legally constituted as envisaged by Section 9(b) of the Land Dispute Tribunal Act, of 1990. In his submissions the *Mr. Kamonde* appeared to have dropped this ground I shall therefore not dwell on the same.

From the foregoing, neither the Land dispute Tribunal at Kiambu, nor the Central Province Land Disputes Appeals Committee had jurisdiction to adjudicate over this matter.

I therefore allow this appeal and set aside the Awards made by the Land Dispute Tribunal Kiambu and the Central Province Provincial Land Disputes Appeals Committee.

Costs in the costs

Orders accordingly.

Dated and delivered at Nairobi this 7th day of October, 2009.

ALI-ARONI

JUDGE