

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**JUDICIAL REVIEW DIVISION**  
**JUDICIAL REVIEW APPLICATION NO. E419 OF 2025**

**ANDREW MARU.....APPLICANT**

**-VERSUS-**

**BUSINESS PREMISES RENT TRIBUNAL (BPRT)**

**AT NAIROBI.....1<sup>ST</sup> RESPONDENT**

**ISABELLA NJERI.....2<sup>ND</sup> RESPONDENT**

**-AND-**

**PAULINE MWIKALI.....INTERESTED PARTY**

**RULING**

1. The application dated 19/12/2025 is brought under certificate of urgency. I certify it as urgent. On the merits thereof, I observe that the applicant seeks for orders of certiorari and prohibition to challenge the decision of the Business Rent Tribunal rendered on 19/12/2025 in BPRT/E1256/2025 which granted possession of property known as **LR No. 7336/132** situated off Nandi Road, Karen, Nairobi, to the 2<sup>nd</sup> Respondent where the *ex parte* applicant is currently in occupation.
2. The applicant therefore seeks leave to apply for certiorari to quash that decision and prohibition to prohibit the 2<sup>nd</sup> Respondent from implementing that decision including preventing the eviction of the applicant from the said property.

3. Leave stage sieves out matters which, among others, the court has no jurisdiction to hear and determine on merits.
4. This is one of those matters wherein the court must determine, on the basis of jurisdiction. Jurisdiction is everything without which, a court of law acts in vain, as was held in the case of **Owners of Motor Vessel Lilian S vs Caltex Oil Kenya Ltd (1989) KLR** that without jurisdiction, a Court must down its tools. Jurisdiction is conferred by the Constitution and or Statute and a Court of law or parties respectively cannot arrogate itself or confer jurisdiction on the court by consent.
5. The issues relating to ownership of land, occupation of or trespass thereto are matters within the premise of the Environment and Land Court as contemplated in **Article 162(2)(b) of the Constitution.**
6. Furthermore, **Article 165(5)(b) of the Constitution** expressly bars this court from hearing and determining disputes which are reserved for the courts contemplated in **Article 162(2) of the Constitution.**
7. Issues of Business Rent Tribunal and occupation or ownership of premises/land rights and alleged dispossession and threatened eviction of the applicant from the land referenced in the application herein fall within the jurisdiction of the Environment and Land Court.

8. The Business Premises Rent Tribunal is established under section 11 of the Landlord, Tenant, (Shops and Catering Establishments) Act, Cap 301 of Laws of Kenya.

9. Section 15 of the Landlord and Tenant (Shops, Hotels and Catering Establishments) Act 301 provides:

**15. Appeal to Court**

*(1) Any party to a reference aggrieved by any determination or order of a Tribunal made therein may, within thirty days after the date of such determination or order, appeal to the Environment and Land Court: Provided that the Environment and Land Court may, where it is satisfied that there is sufficient reason for so doing, extend the said period of thirty days upon such conditions, if any, as it may think fit.*

*(2) In hearing appeals under Subsection (1) of this Section the Court shall have all the powers conferred on a Tribunal by or under this Act, in addition to any other powers conferred on it by or under any written law.*

*(3) Deleted by Act No. 2 of 1970, s. 13.*

*(4) The procedure in and relating to appeals in civil matters from subordinate Courts to the Environment and Land Court shall govern appeals under this Act:*

*Provided that the decision of the Environment and Land Court on any appeal under this Act shall be final and shall not be subject to further appeal.”*

10. It does not require any interpretation of the above provisions to see that the decisions of the Business Premises Rent Tribunal are appealable to the Environment and Land Court and if a party has to approach the court by way of judicial review in appropriate cases, then it has to be the Environment and Land Court, not the High Court.
11. Therefore, for want of jurisdiction, I hereby proceed to strike out the chamber summons dated 19/12/2025 with no orders as to costs.
12. This file is closed.

**Dated, Signed and Delivered at Nairobi this 19<sup>th</sup> Day of December, 2025**

**R.E. ABURILI  
JUDGE**