



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT NAKURU

JUDICIAL REVIEW NO 4 OF 2016

DAVID MATUNKE ole MAYONEAPPLICANT

VERSUS

NATIONAL LAND COMMISSIONRESPONDENT

RULING

(Application for leave to commence judicial review proceedings; National Land Commission asking for various documents from the applicant the Chairman of a Group Ranch; argument that the mandate of the NLC does not extend to affairs of a Group Ranch; leave granted to commence proceedings for orders of certiorari to quash the letter of the NLC; orders staying implementation of the letter issued)

1. The applicant in this matter seeks leave to commence judicial review proceedings for the order of certiorari to quash the respondent's letter dated 9 February 2016. It is the position of the applicant that the said letter is *ultra vires* the powers of the respondent.
2. The application is supported by an affidavit of the applicant. He is the Chairman of Maji Moto Group Ranch. He has deposed that the Group Ranch is registered under Section 7 of the Land (Group Representatives) Act, Chapter 287 Laws of Kenya and the day to day management is run by the Group Representatives elected under Section 5 of the said statute. He did receive a letter dated 9 February 2016 from the National Land Commission, the respondent herein, instructing him to provide details of ownership documents, maps, survey plans, receipts of payment or other historical documents pertaining to 57 properties outlined in the letter. He has averred that disputes arising from Group affairs are governed under Section 10 of CAP 287 and cannot be arbitrated upon by the National Land Commission. According to the applicant, only the Registrar of Group Representatives can arbitrate or a dispute can be heard by a Magistrate's Court. He has stated that the powers and functions of the National Land Commission do not extend to private matters. It is therefore his view that the letter of 9 February 2016 needs to be quashed by an order of certiorari.
3. I have considered the application. I have looked at the impugned letter of 9 February 2016. I cannot for now make a decision on whether or not the said letter is beyond the powers of the respondent. But I am of the view that the applicant has tabled sufficient material to warrant him leave to apply for an order of certiorari.
4. I therefore grant leave to the applicant to commence judicial review proceedings for orders of certiorari to quash the respondent's letter dated 9 February 2016. I direct that the main motion be filed and be served within 21 days from today.

5. In the letter, the applicant was given 7 days to avail to the respondent various documents relating to several land parcels falling within Maji Moto Group Ranch. I order that the grant of leave do operate as a stay meaning that the respondent is stopped from asking for any documents from the applicant pending hearing and determination of the main motion.

6. The costs of this application shall be costs in the main motion.

7. It is so ordered.

Dated, signed and delivered in open court at Nakuru this 1st day of March 2016.

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

AT NAKURU

In the presence of: -

Mr Karanja Mbugua for ex-parte applicant

Court Assistant: Janet

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

AT NAKURU