



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT MERU**

**JUDICIAL REVIEW NO 5 OF 2014**

**IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR A JUDICIAL  
REVIEW ORDER OF CERTIORARI**

**AND**

**IN THE MATTER OF THE PROCEEDINGS, FINDINGS AND DECISION MADE ON 05.12.2013  
IN OBJECTION NO 636 OVER LAND PARCEL NUMBER 6348 SITUATED IN AKAIGA  
ADJUDICATION SECTION.**

**BETWEEN**

**MORRIS KIREMA M'ITURU .....EXPARTE APPLICANT**

**VERSUS**

**TIGANIA EAST DISTRICT LAND ADJUDICATION AND**

**SETTLEMENT OFFICER.....1ST RESPONDENT**

**ATTORNEY GENERAL .....2ND RESPONDENT**

**AND**

**JAMES M'AMANJA M'RUKUNGA.....INTERESTED PARTY**

**R U L I N G**

1. This application is dated 7th July, 2014 and seeks orders:-

- a. That this Honourable Court be pleased to certify this application urgent and that the same be heard expeditiously.*
- b. That this Honourable Court be pleased to strike out this Judicial Review with costs to the Interested Party/applicant.*
- c. That the stay orders granted by Court on 12 March, 2014 be discharged accordingly.*
- d. Cost of this case/application be awarded to the Interested Party.*

2. It is supported by the affidavit of Leonard Ondari, the Advocate for the Interested Party and has the following grounds:-

- a. *No Notice of Motion was filed and served within the mandatory 21 days.*
- b. *The leave obtained is thus a non-starter.*
- c. *The conduct of the Exparte application amounts to gross abuse of the Court process.*

3. The Supporting Affidavit is dated 7th, July, 2014 and states as follows:-

1. *THAT, I am a male adult of sound mind capable of swearing this affidavit.*
2. *THAT, I have the conduct of this case on behalf of the Interested Party.*
3. *THAT, immediately the Interested Party was served with the order dated 13th March, 2014, he instructed us to act for him.*
4. *THAT, on 3rd April, 2014 we filed and served our Notice of appointment.*
5. *THAT, on 25th June, 2014, I visited the registry to peruse the file herein and was surprised to find that no notice of motion was filed within the statutory period as required by law.*
6. *THAT, the exparte applicant is therefore taking this Court for a ride or has abused its process.*
7. *THAT, the order of stay is therefore irregular in absence of the Notice of Motion.*
8. *THAT, the whole application has therefore no basis its irredeemable as no amount of amendment can save it.*
9. *THAT, It is only fair that the case be struck out and Orders discharged.*

4. When the matter came up for directions, it was clear that that the exparte applicant did not file the apposite notice of Motion within the Stipulated time. In the Circumstances, the application is allowed in terms of prayers (b) (c) and (d).

It is so ordered .

**DELIVERED IN OPEN COURT AT MERU THIS 24<sup>TH</sup> DAY OF MAY, 2016 IN THE PRESENCE OF:-**

CC: Lilian /Daniel

Mutuma for the exparte applicant

Ondari for the Interested Party.

**P.M.NJOROGE**

**JUDGE**