



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
ENVIRONMENT AND LAND COURT
ELC. APPEAL CASE NO. 37 OF 2014

UFUNDI SAVINGS & CREDIT

CO-OPERATIVE SOCIETY LIMITED..... APPELLANTS

-VERSUS-

FRANCIS GITARI NDIRANGU & 99 OTHERS.....RESPONDENTS

RULING

I have considered the request by Counsel for the Appellant for directions as to whether or not this appeal shall be heard by a single Judge or a bench of two Judges.

The Appellant has filed this appeal in this court pursuant to the provisions of **Section 81 of the Co-operative Societies Act Cap 490** which provides as follows:-

“Any party to the proceedings before the Tribunal who is aggrieved by any order of the Tribunal may.....appeal against such order to the High Court.”

The Appellant has therefore rightfully filed his Appeal in the Environment and Land Court which has jurisdiction to hear matters relating to, *inter alia*, the use and occupation of and title to land. This Appeal is such a dispute. The question to be answered therefore is how is the Environment & Land Court to be constituted? This question is answered by **Section 21(1) of the Environment and Land Court Act** which provides as follows:

“The court shall be properly constituted for purposes of its proceedings under this Act by a single Judge.”

This provision answers the question raised by Counsel for the Appellant. The Environment & Land Court is duly constituted by a single judge for all purposes of the Environment & Land Court Act. This goes to show that this Appeal can be heard and determined by a single Judge.

The only exception that exists to this is **Section 21(2) of the Environment & Land Court Act** which provides as follows:

“Notwithstanding subsection (1), any matter certified by court as raising a substantial question of law-

- a. **Under Article 165(3)(b) or (d) of the Constitution, or**
- b. **Concerning impact on the environment and land shall be heard by an uneven number of judges as determined by the Chief Justice.”**

Does this Appeal raise a substantial question of law? I do not think so. This Appeal concerns a question as to the use, occupation and title to a parcel of land and the building erected thereon. That does not raise a substantial question of law and I decline to certify it as such.

I therefore direct that this Appeal be heard and determined by a single Judge of the Environment & Land Court.

DELIVERED AND DATED AT NAIROBI THIS 19TH

DAY OF FEBRUARY 2015.

MARY M. GITUMBI

JUDGE