



**REPUBLIC OF KENYA**

**ON THE HIGH COURT OF KENYA AT MERU**

**E & L NO. 82 OF 2013**

**MBAABU M'ABUAINA M'IMUNYA.....PLAINTIFF**

**VERSUS**

**CHARLES MUNGATHIA M'ABUAINA.....1ST DEFENDANT**

**THE LAND ADJ. & SETTLEMENT OFFICER TIGANIA.....2ND DEFENDANT**

**R U L I N G**

The plaintiff obtained an Interlocutory Judgment against the two defendants on 8.5.2013. The 2nd defendant is the Land Adjudication and Settlement Officer, Tigania, who is represented by the Attorney general.

When the matter came up for formal proof proceedings on 15.10.2014, Mr. Kiongo, State Counsel, for the 2nd defendant submitted that the Interlocutory Judgment should be set aside as it was irregularly obtained in contravention of Order 10 rule 8 of the Civil Procedure Rules which requires leave of Court to be obtained before an Interlocutory Judgment is entered against the government. I agree.

In the circumstances, the apposite Interlocutory Judgment is hereby set aside.

It is so ordered.

**Delivered in Open Court at Meru this 10th day of October, 2014 in the presence of:**

Cc. Daniel/Lilian

Muthamia h/b Kimathi Kiara for Plaintiff

Kiongo for 2nd Defendant

**P. M. NJOROGE**

**JUDGE**