



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISII

Misc Civ Appli 56 of 2005

**IN THE MATTER OF AN APPLICATION FOR ORDER OF PROHIBITION TO RESTRAIN
AND STOP DISTRICT LAND ADJUDICATION AND SETTLEMENT OFFICER TRANSMARA
AND HIS SURVEYOR FROM ALTERING OR CHANGING NAMES OF CURRENT
REGISTERED PROPRIETORS OLDANYATTI/476 AND 477 AND LAND COMMITTEES AND
ARBITRATION BOARD PROCEEDINGS AND DECISION AFFECTING LANDS P/NO.
OLDANYATTI/476 AND 477 IN DISREGARD OF LAND ADJUDICATION PROCEDURES AS
PROVIDED BY LAND ADJUDICATION ACT CAP 284 LAWS OF KENYA AND QUASH
PROCEEDINGS OF DISTRICT LAND ADJUDICATION AND SETTLEMENT OFFICER
DATED 15.2.2005 AND EVICTION ORDER THEREUNDER**

AND

IN THE MATTER OF CIVIL PROCEDURE RULES THERETO

AND

IN THE MATTER OF PROVISIONS OF LAND ADJUDICATION ACT

BETWEEN

REPUBLIC APPLICANT

VERSUS

DISTRICT LAND ADJUDICATION AND SETTLEMENT OFFICER TRANSMARA

DIVISION 1ST RESPONDENT

CHARLES OWINO OGUTU 2ND RESPONDENT

PHILIP OGUTTU 3RD RESPONDENT

AND

SILFANUS OJALO OGUTU EX-PARTE

RULING:

Applicant seek court to set aside its orders of 4th October 2005 dismissing the application dated 23rd

September 2005 and reinstate that application.

It was submitted by counsel that when the court certified the application as urgent and fixed the application for hearing on 10th October 2005 that date was not brought to the attention of the counsel or the applicant and that is why they did not attend on 10th October 2005.

Mr. Ondongo for the respondent opposed the application and stated that the applicant having filed the application under certificate of urgency should have followed up to find when it was fixed.

I have considered the application. Indeed when the court fixed the application for hearing on 4/10/2005 the counsel and applicant were absent. There is no evidence that the Deputy Registrar notified him of the date of hearing. In the circumstances I allow the application and set aside this court orders made on 4th October 2005.

Costs in the cause.

Dated 16th June 2006.

KABURU BAUNI

JUDGE

Cc – Mobisa

N/A for Applicant

N/A for Respondent