



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERUGOYA

Jr Misc. Civil Application No. 12 Of 2012

IN THE MATTER OF
AN APPLICATION FOR JUDICIAL REVIEW FOR
ORDER OF MANDAMUS AND PROHIBITION
IN THE MATTER OF LAND ADJUDICATION ACT, CAP 284 LAWS OF KENYA
IN THE MATTER OF ARTICLE 159 OF THE CONSTITUTION OF KENYA
IN THE MATTER OF KAMAINDI ADJUDICATION SECTION OF KAMAINDI LOCATION OF
IGAMBA NG'OMBE DIVISION

IN THE MATTER OF KAMWIMBI B ADJUDICATION SECTION OF IGAMBA NG'OMBE
DIVISION

IN THE MATTER OF DISTRICT LAND ADJUDICATION OFFICER MERU
SOUTH/MAARA DISTRICTS DELARATION NO. ADM/LA/4/118 DATED 4TH OCTOBER 2012

NJERU MAIRANI 1ST APPLICANT

DAVID NJIRU MUTUA 2ND APPLICANT

DANIEL NYAGA 3RD APPLICANT

(THE APPLICANTS REPRESENT 13 MBEERE CLANS IN IGAMBA NG'OMBE DIVISION)

VERSUS

THE ATTORNEY GENERAL 1ST RESPONDENT

THE COMMISSIONER OF LANDS 2ND RESPONDENT

DIRECTOR OF LAND ADJUDICATION 3RD RESPONDENT

CHIEF LAND REGISTRAR 4TH

RESPONDENT

DISTRICT LAND ADJUDICATION OFFICER

MERU SOUTH/MAARA DISTRICTS 5TH RESPONDENT

RULING

The applicants herein filed this Chamber Summons under certificate of urgency on 17th December 2012 seeking leave to apply for orders of prohibition and mandamus with regard to the respondents Declaration number ADM/LA/4/118 dated 4th October 2012 which declared Kamaindi of Kamaindi Location in Igambo Ngombe Division. The same is supported by a verifying affidavit and statutory statement.

I have considered the application. What comes out from the affidavit and statement is that in declaring the Kamaindi of Kamaindi Location, the 5th respondent called a meeting on 29th September 2012 of which only the members of the Tharaka Community were represented and yet Kamaindi Location is occupied by both the Tharaka and Mbeere Community. There was therefore a breach of the rules of natural justice. Mr. Kamunda has addressed me on the application during which I raised the issue that this matter ought to have been filed at the Environment and Land Court in Meru. He agrees but urges me to grant leave then I can transfer the suit to the Environment and Land Court in Meru.

Having considered the submissions by Mr. Kamunda and also having looked at the statutory statement and verifying affidavit, I am satisfied that the applicants have established sufficient grounds for the orders sought in the Chamber Summons dated 13th December 2012 and filed herein on 17th December 2012. I accordingly allow the application and hereby grant leave to the applicants to apply for orders of prohibition and mandamus as prayed. In accordance with **Rule 3 (1) of Order 53 of the Civil Procedure Rules**, I direct that the applicants shall file the Notice of Motion within 21 days from the date hereof. I further direct pursuant to **Rule 3 (2) of the said orders** that the applicants shall serve the Notice of Motion on the respondents and all such persons as are affected by it within 14 days of filing and thereafter file an affidavit stating who has been served. The leave granted herein shall operate as a stay of any intended decision, action, execution or enforcement of the Declaration number ADM/LA/4/118 of 4th October 2012.

Costs shall be in the cause.

It is further directed that this matter be and is hereby transferred to the Environment and Land Court Judge Hon. Njoroge in Meru High Court where it will be mentioned on 4th November 2013 for further orders.

B.N. OLAO

JUDGE

30TH SEPTEMBER, 2013

30/9/2012

Coram

B. N. Olao – Judge

CC – Muriithi

Mr. Kamunda for Applicant present

No appearance for Respondents

COURT: Ruling delivered this 30th day of September 2013 in open Court.

B.N. OLAO

JUDGE

30TH SEPTEMBER, 2013