

IN THE WESTERN CUSTOMARY APPEAL COURT

CIVIL CASE NO: 06/2009

BETWEEN:

Jack Kevu

APPELLANT

Frank Dia & Five Others

AND

RESPONDENT

ABOUT:

Maepu

LAND

MEMBERS:

DAVID LAENA



PRESIDENT

SILVERIO MAIKE



MEMBER

ALLAN HALL



"

WELLINGTON LIOSO



"

NAINGIMEA BEIARURU



"

FLICKSON SAMANI



CLERK

## JUDGMENT

### Introduction

This is an appeal by the Appellants against a Timber Right Determination heard on the 27<sup>th</sup> May 2009 at Munda, Western Province by the Provincial Executive.

The gathering was on purpose to determine and identify persons lawfully able and entitled to grant timber rights.

**Section 8 (3) (a-e) of the Forestry Resources and Timber Utilization Act (CAP. 40)** outline the duties required by the provincial executive when conducting a timber rights hearing. Whether the Western Provincial Executive had followed the requirements set out above is not a matter for this Court to find out.

**Section 10 (1) of the Forestry Resources and Timber Utilization (Amended Act 2000)**, provides that "Any person who is aggrieved by the determination of "an appropriate Government" made under **Section 8(3)(b) or (c) (FR&TU)** may..." appeal to the Customary Land Appeal Court (CLAC) to hear and determine the appeal.

Submissions made by both parties simply based on the fact that they are the rightful people to grant timber rights.

The respondent insisted that provincial executive had rightfully determined that they are the right people to grant timber rights.

Appellant submitted that during the timber rights hearing at Munda, only the respondent present. The Appellant did not know there was a timber rights hearing at Munda. That is why they did not have the chance to submit their side of the story to the provincial executive.

Appellant further submit that there was no wide consultation between both parties prior to the timber rights hearing at Munda.

This Court therefore finds the determination made on the 26<sup>th</sup> June 2009 be quashed.

**Orders:**

1. That the determination made by the Provincial Executive is dismissed.
2. That the Form 2 Determination is dismissed.
3. That the rightful persons to grant timber rights are as follows
  - a. Ronald Kitu
  - b. Terry Kera
  - c. Nepia Oka
  - d. Nelson Huti
  - e. Jack Nama
  - f. John Lingi
  - g. Frank Dia
  - h. Robert Petani
  - i. Manross Ngoro
  - j. Jack Kegou

4. The parties to bear their own cost.

Members: David Laena	President
Silverio Maeke	Member
Allan Hall	"
Willington Lioso	"
Naingimea Beiaruru	"
Flickson Samani	Clerk

Dated 26<sup>th</sup> November 2009