**Odhiambo v Otieno and another**

**Division:** High Court of Kenya at Nairobi

**Date of judgment:** 15 June 1973

**Case Number:** 758/1973 (45/74)

**Before:** Muli J

**Sourced by:** LawAfrica

*[1] Constitutional Law – Government – Proceedings against – In respect of acts of persons immune*

*from civil process – Not maintainable.*

*[2] Constitutional Law – Government – Proceedings against – Machinery under statute not exhausted –*

*Proceedings not maintainable – Land Adjudication Act, s.* 20 (*K.*).

**Editor’s Summary**

The plaintiff sued the first defendant and the Attorney-General in respect of proceedings of the Land

Arbitration Board. It was clear that proceedings before the Board had not been completed. The Attorney-General applied to be struck out from the suit on the ground that no cause of action was shown when proceedings had not been completed, nor in respect of the actions of persons who are themselves protected from civil suit.

**Held –**

(i) no action lies while the machinery provided by a statute had not been exhausted;

( ii) no action lies against the Attorney-General for the acts of persons themselves exempt from civil

suit.

Second defendant struck out.

**Case referred to Judgment:**

(1) *Kimani v. Attorney-General*, [1969] E.A. 502.