

IN THE COURT OF APPEAL OF TANZANIA  
AT DAR ES SALAAM

(CORAM: Mustafa, J.A., Mwakasendo, J.A. and Kisanga, J.A.)

CIVIL APPEAL NO.23 OF 1981

B E T W E E N

ISSAC LAZARO MOWO ..... APPELLANT

A N D

SHOSE ISSAC LAZARO MOWO ..... RESPONDENT

(Appeal from the Judgement of the High  
Court of Tanzania at Dar es Salaam  
(Mnzavas, J.K.) dated the 27th day of  
August, 1981.

in

Matrimonial Cause No.19 of 1979

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JUDGEMENT OF THE COURT  
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MUSTAFA, J.A.

When the petition was filed in the High Court no certificate from the Conciliation Board was filed with the papers as required by section 106(2) of the Law of Marriage Act. That would in itself make the petition incompetent.

In his notice affirming the decision of the High Court, the advocate for the respondent has therefore submitted that the appeal be dismissed. It is conceded by Mr. Muccadam for the appellant that no certificate from the Board was filed. The appeal, therefore, is dismissed with costs.

Mr. Lakha has cross appealed on the matter of costs. The trial judge dismissed the petition of the appellant, but stated "I make no order as to costs". He gave no reason why he did not grant costs to the successful party. Mr. Muccadam submitted that the trial judge must have exercised his discretion and had directed his mind to this issue. Generally, costs follow the event, unless there are reasons for not doing so. We have considered this matter and feel that Mr. Lakha's submission that his client should have costs in the High Court has merit.

We accordingly set aside the order for costs in the High Court and substitute therefore an order that costs in the High Court be awarded to the wife/respondent.

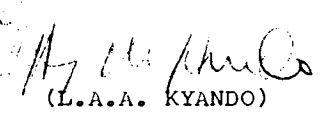
DATED AT DAR ES SALAAM this 23rd day of February, 1982.

(A. MUSTAFA)  
JUSTICE OF APPEAL

(Y.M.M. MWAKASENDU)  
JUSTICE OF APPEAL

(R.H. KISANGA)  
JUSTICE OF APPEAL

I certify that this is a true copy of the original.

  
(L.A.A. KYANDO)  
DEPUTY REGISTRAR