

**IN THE HIGH COURT OF TANZANIA
DODOMA DISTRICT REGISTRY
AT DODOMA
CIVIL CASE NO. 8 OF 2018**

SHABAN ALLY ICHILIMA (*Suing under Power
of Attorney donated by* **HAWA ALLI ICHILIMA**) **PLAINTIFF**

VERSUS

NMB BANK PLC **1ST RESPONDENT**
MARTIN SHABAN KIRIA **2ND RESPONDENT**
YONO AUCTION MART **3RD RESPONDENT**
ZAINAB JUMA HOTI **4TH RESPONDENT**

RULING

13th April, 2021 & 13th April, 2021

M.M. SIYANI, J.

When this suit came for hearing of the preliminary objection on 8th June, 2020, Fredy Kalonga the learned counsel who represents the plaintiff in the instant matter, conceded that this court lacks jurisdiction to entertain the suit and consequently prayed for the same to be struck out. Both counsel Isaya Nchimbi and Paul Nyangarika were of the same view but since the question

of jurisdiction was not the only objection raised, they moved the court to reserve the ruling and allow them to argue the remaining objections.

Having heard the learned counsels on the remaining points of objection, I delivered my ruling on 28th August, 2020. In the that ruling however, I did not resolve the conceded issue of jurisdiction. The instant ruling therefore is in respect of the question of jurisdiction of this court as raised by the defense counsels. I wish to be brief. As noted there were no submissions by the counsels with regard to this issue following counsel Kalonga's concession. The pleadings reveals that the cause of action was premised on a loan of Tshs 4,000,000/= mortgage that was later sold at Tshs 7,000,000/=.

In terms of section 33 (2) (a) of the Land Court Disputes Act Cap 216 RE 2019 the pecuniary jurisdiction of the District Land and Housing Tribunal for recovery of immovable properties, extends to Tshs 300,000,000/=.I therefore agree with the learned counsels, that since the value of the subject matter in this case does not exceed the pecuniary jurisdiction of the District Land and Housing Tribunal then the instant matter could have properly been entertained by a lower court or tribunal. That notwithstanding the fact the

suit could be entertained by a lower court or tribunal does not by itself oust the jurisdiction of the High court. That is the gist of section 13 of the Civil Procedure Code Cap 33 RE 2019.

However, it is a requirement of law under section 13 (supra) that a suit should first be instituted in a court of lowest grade competent to try it. In the fine and despite being conceded, I hold that this court hold the prerequisite jurisdiction to try the instant matter. But since the same could as well be entertained by another court or tribunal subordinate to this court, I find the counsel Kalonga's request to have it struck out, justifiable and as prayed the same order is hereby granted. Considering the circumstance of the case, I hold each party to be its own costs.

DATED at **DODOMA** this 13th day of April,2021



M.M. SIYANI
JUDGE