

IN THE HIGH COURT OF TANZANIA

AT DAR ES SALAAM

PC CIVIL APPEAL NO. 40 OF 1991

KARIBU KESHO APPELLANT

versus


SAIDI HATIBU RESPONDENT

J U D G M E N T.


RUBAMA, J:-

This is a second appeal by KARIBU KESHO against concurrent finding of fact by the Temeke Primary Court, Temeke District and the District Court of Temeke District sitting at Kivukoni Front that he, KARIBU KESHO had encroached into the land of the respondent, SAIDI HATIBU.

Having gone through the record of the proceedings at the trial and first appellate court and considered the grounds of appeal, I find myself in full agreement with the judgment of the trial court which was upheld by the first appellate court. The trial court very properly and in very admirable detail considered the evidence of both parties to the conflict in reaching the decision that the land in dispute belonged to the respondent. The appellant's assertion in his second ground of appeal that MOHAMED SAIDI MFUNDO (PW2) was not a truthful witness as he was no leader of the area and that SELEMANI AMUMANI (PW3) did not know the history of the area is not supported by the evidence on record. Both PW2 and PW3 deposed on the facts immediately relevant to the matter in issue i.e. that the land in dispute belonged to the respondent. The assertions of the respondent now are not supported by the evidence on record. I dismiss the appeal with costs. The decision of the trial court which was upheld by the first appellate court is hereby confirmed. It is hereby ordered that the appellant vacate the land he is unlawfully occupying within a period of one month from the day of giving of this judgment.


YAHYA RUBAMA
JUDGE
26/6/92

Coram: Rubama, J.
Parties present
Judgment delivered.


YAHYA RUBAMA
JUDGE
26/6/92.