

IN THE HIGH COURT OF TANZANIA

AT DODOMA

(PC) CIVIL APPEAL NO 14 OF 2004

**(Originating from Singida District Court in Civil
Appeal No. 81 of 2003.**

**Civil Case No. 86 of 2002 of Ilongero Primary
Court.)**

JUMANNE SHABAN APPELLANT

Versus

ADAMU IGWE NKUNGU RESPONDENT

15/8/2006 & 21/9/2006:

J U D G M E N T

MASANCHE, J.:

The appellant is on a second appeal. He has lost in the two courts below. The appellant, Jumanne Shaban, was sued by the respondent, Adam Igwe Nkungu, for some land, covering 25 acres, in Ilongero Primary Court Civil Case No. 86/2002. When the claim was read before the magistrate, sitting with his assessors, the appellant is said to have admitted the claim in the following words:

“Mimi silijui eneo hilo. Wala sina mpango nalo. Mdai achukuwe tu. [I do not know that area. And, I have no plans for it. The plaintiff can take it].”

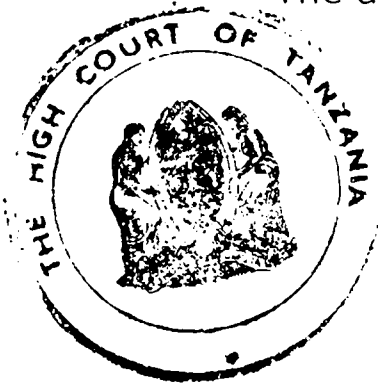
Then, some time later, the appellant, for reasons best known to himself, decided to appeal to the District Court, Singida. Here, before Rutatinisibwa R.M., he has lost the case. The appellant had engaged an advocate, Mr. Chailla, who informed the Court that his client could not have admitted the claim. Mr. Chailla put up a case that his client probably, did not understand the language to which he answered and admitted the claim.

Now, as correctly pointed out by the learned resident magistrate on first appeal, the trial magistrate sat with assessors “who are recruited from the indigenous of the locality where the court is situated.”

I have read the memorandum of the appeal which, in fact, has not been drafted by Mr. Chailla but appellant himself. He now talks of the trial magistrate, at the Primary Court level, being a friend of his adversary. He also talks of the respondent being related to some of the panelists at the trial. These, true, are all conjectures on part of the appellant. And, indeed, before me, he talked of the magistrate writing what he did not say.

The appellant should be informed that appellate court respect what is recorded in these lower Courts records. Court records are serious documents, and, impeaching them should be for the noblest cause.

The appeal is dismissed with costs.




(J.E.C. MASANCHE)
JUDGE

DODOMA:

21st September 2006

Appellant - Present in person.

Respondent - Absent.