

**IN THE HIGH COURT OF TANZANIA**

**AT MOSHI**

**PC. CRIMINAL APPEAL NO.2 OF 2007**

**(Originating from USANGI PRIMARY COURT CR.CASE**

**NO.28 OF 2005C/F CR. APPEAL NO.4/2006**

**MWANGA PR.COURT)**

**1. AVIJA MATHIAS }  
2. FREDEM ENDENI } .....APPELLANTS**

**VERSUS**

**BASHIRI HASSANI .....RESPONDENT**

**JUDGMENT**

**HON. S.E.MUGASHA, J**

The appellants were charged and convicted for malicious damage to property in the Primary Court of Usangi in Criminal Case No.28 of 2005.

The appellants were convicted and conditionally discharged for 6 months and ordered to pay compensation worth 980,000/= to the Respondent on the damaged property within a period of three months.

Appellants aggrieved with the decision of the Primary Court preferred an appeal to the District Court challenging conviction and sentence for they asserted that there was no sufficient evidence to prove a charge against them. The District Court satisfied with the decision of the Primary Court dismissed the appeal and upheld the position of the Primary Court. The appellants dissatisfied with the decision of the District Court have filed an appeal arguing that the District Court erred in Law and fact in dismissing the appeal without any point of law. Moreover, the appellants further urged this Court to peruse the entire proceedings of the subordinate Courts and subsequently allow the appeal.

In order to appreciate what transpired in the trial and first appellate Courts, the background of the appeal may briefly be stated as follows:

The parties to this appeal had a civil suit No.7/2001 which was decided and upon execution of the judgment in separating plots off disputed land, properties of the Respondent were damaged by the appellants in the presence of the Ward Executive Officer who was duly instructed to supervise the execution process.

This is according to the testimony of PW2 and PW3. The pertinent issue is whether there is a point of law worth the consideration of the Court. Having carefully gone through the record of the trial Court and the first appellate, the two Courts did a commendable job and I am satisfied

that there is no point of law worth consideration by this Court. Moreover, I have carefully studied the testimony of the prosecution and defence and I am satisfied that a charge against the appellants was proved beyond reasonable doubt and all along it was not controverted by the defence testimony.

In the circumstances, I uphold the decision of the lower Courts and dismiss the appeal.

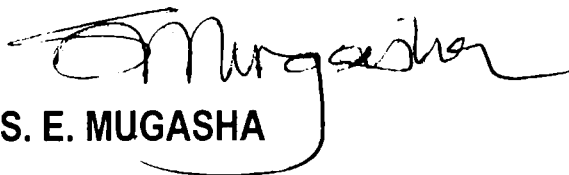
Right of appeal Explained.

**S. E. MUGASHA**

**JUDGE**

**14/9/2007**

Judgment delivered in the presence of the appellants and the Respondent.

A handwritten signature in black ink, appearing to read 'S. E. Mugasha', written over a printed name.

**S. E. MUGASHA**

**JUDGE**

**14/9/2007**