

IN THE HIGH COURT OF TANZANIA
(LAND DIVISION)
AT TANGA

LAND APPEAL NO. 1 OF 2007

*(From the Decision of the District Land and Housing
Tribunal of Tanga District, at Tanga in land Case Appeal
No. 69 of 2006 and Original Ward Tribunal of Songa
Ward in Application No. 3 of 2006)*

CHARLES KAMWENDO APPELLANT
VERSUS

1.SAIDI HATIBU 1ST RESPONDENT
2.FATUMA SAIDI 2ND RESPONDENT

J U D G M E N T

FIKIRINI, J:

This matter originates from Songa Ward Tribunal, Muheza District Tanga, in land dispute No. 3 of 2006. The appellant aggrieved by the decision in the said matter appealed to this court filing three grounds of appeal.

The appellant was represented by Mrs. Kabwanga learned advocate, who fully adopted the petition. The

respondents were absent but were duly served the court therefore ordered the appeal to proceed *ex parte*.

Before I exhaust my energy to review the merits of this appeal and the submissions made by Mrs. Kabwanga counsel for the appellant, let me satisfy myself that the procedure of filing appeal which originates from Ward Tribunal before this court has been complied with. From the record it indicates that this appeal was directly filed to this court evidenced by the exchequer receipt No. 2516340 with the District Registrar's stamp dated 25th January, 2007. All appeals in respect of matters originating from Ward Tribunal, are governed by section 38(2),(3) of the Land Disputes Courts, Act, which provides:

(2) "Every appeal to the High Court [Land Division] shall be by way of petition and shall be filed in the District Land and Housing Tribunal from the decision, or order of which the appeal is brought".

(3) "Upon receipt of petition under this section, the District Land and Housing

*Tribunal shall within fourteen days
dispatch the petition together with
the record of the proceedings in the
Ward Tribunal and the District Land
and Housing Tribunal to the High
Court (Land Division)".*

Though the two member assessors have filed their opinion, I have however, not been able to consider them due to the fact the appeal was not sustainable for technical reasons. Since that is a mandatory requirement this appeal is therefore incompetent and the same is accordingly struck out with costs. However, the appellant is at liberty to re-file his appeal if he so wishes. It is so ordered.

Judgment Delivered this 31st October 2012 in the presence of the Appellant and Mrs. A.W. Kabwanga her counsel.



P.S. FIKIRINI

J U D G E

31st October, 2012

Right of Appeal Explained.

A handwritten signature in black ink, appearing to read "P.S. Fikirini", is written over a horizontal line.

P.S. FIKIRINI

J U D G E

31ST OCTOBER 2012