

**IN THE HIGH COURT OF TANZANIA**

**(LAND DIVISION)**

**AT MWANZA**

**LAND APPLICATION NO. 97 OF 2008**

*(From the Land and Housing Tribunal of Tarime District Appeal No.25 of 2007)*

**MOHAMED RUBUNDA.....APPELLANT**

**VS**

**KAPONGO OMARI.....RESPONDENT**

**16/10/2012**

**JUDGEMENT**

**LATIFA MANSOOR, J.**

The Appellant is suing as the guardian of the two minors namely Yasini Tenga and Juma Tenga. He claims that the Respondent had trespassed into the children's land. He however filed a case at the DLHT in his own name.

The Respondent claims that the land belongs to his late father, Mzee Omari Kamoga. He had built a house for his mother at the disputed area. He claims that the disputed land belonged to his father who had 4 wives. The area that belongs to his late father was 70/80 foot steps (hatua). The person who is entrusted by the family as the administrator of their late father's estate is their elder brother, Miraji

Omari. He says that at the village level and at the DLHT, they visited the locus in quo and found that he has not encroached the Applicants' land. Between his house and the Appellant's land there is a space of 32 foot steps (hatua).

Since the Appellant is representing the interest of the two minors, but he has sued in his own name, and since the Respondent's claim is on land belonging to his late father without having letters of Administration, the proceedings and Judgement and decree at the village Land Committee and that of the DLHT for Tarime are hereby quashed. The matter to be filed afresh at the Nyamagaro Ward Tribunal, in the name of the Appellant in his capacity as the guardian or Trustee or next friend of the minors, and the Respondent should be the Administrator of the late Omari Kamoga as shall be appointed by the clan of the late Omari Kamoga.

Status quo on the suit land to be maintained pending the outcome of the proceedings at the Ward Tribunal.

  
Latifa Mansoor  
**JUDGE**  
16/10/2012