

IN THE HIGH COURT OF TANZANIA

AT BUKOBA

MISC. LAND APPLICATION NO. 61 OF 2017

(Arising from High Court of Tanzania at Bukoba in Land Case Appeal No. 61 of 2014 and Land Application No. 33 of 2013 of the DLHT at Bukoba)

NOVATUS T.C.L. KASHAGA-----APPLICANT

VERSUS

EUNICE KAINDOA & 3 OTHERS-----RESPONDENT

RULING.

12/07 & 3/8/2018

BONGOLE, J.

The applicant NOVATUS T.C.L. KASHAGA instituted this application under **Section 47 (1) of the Land Disputes Courts Act [CAP. 216 R.E. 2002]** and **Rule 45(a) of the Tanzania Court of Appeal Rules, 2009**].

The reliefs sought by the applicant are that:-

- (1) This court be pleased to grant leave to the applicant to appeal to the Court of Appeal.*
- (2) Any other orders this court sees it fit to grant.*
- (3) Costs of this application.*

The application is supported by an affidavit deposed on by the applicant.

The facts as deposed in the affidavit inter alia materially run as follows:-

That the applicant was an appellant in Land Case Appeal No. 61 of 2014 before the High Court of Tanzania Bukoba.

That he was aggrieved by the judgment of this court in Land Case Appeal No. 61 of 2014 delivered on the 28th August, 2017 and he intends to appeal against the whole judgment to the Court of Appeal of Tanzania.

That there are serious legal issues raised in the said judgment which require the intervention of the Court of Appeal through an appeal; that

(a) Whether there was a legal contract entered between the appellant and the 1st and the 2nd Respondents which was breached by the said respondents.

(b) Whether the Respondents trespassed into the suit land.

Finally that the applicant has already filed a Notice of Appeal to the Court of Appeal.

The Respondents were duly served by way of Publication via Uhuru Newspapers dated 9th June, 2018 but they did not enter appearance to resist the application.

When the application came for hearing before me, the applicant had nothing substantial to add but prayed that his application be granted.

The law under which this application is grounded provides:-

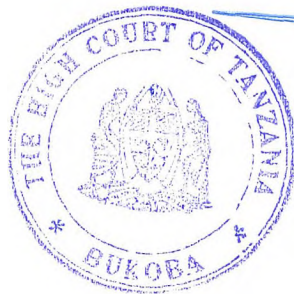
S. 47 (1) of Land Disputes Courts act cap. 216 R.E. 2002

“S. 47 (1) Any person who is aggrieved by the decision of the High Court [Land Division) in the exercise of its original,

revisional or appellate jurisdiction, may with the leave from the High Court (Land Division appeal to the Court of Appeal in accordance with the Appellate jurisdiction Act”.

From the fact that the applicant is aggrieved by this court’s decision dated 28th August, 2017 and that he has lodged a notice of appeal to the Court of Appeal timely; and from the fact that this application has not been resisted, I will have no reasons to deny his prayer.

Wherefore leave to appeal to the Court of Appeal is hereby granted as prayed by the applicant. Costs in the course.



S.B. Bongole

Judge

3/8/2018

Date: 03/8/2018

Coram: Hon. S.B. Bongole, J.

Applicant: Absent

1st Respondent: Absent

2nd Respondent: Absent

3rd Respondent: Absent

4th Respondent: Absent

B/Clerk: A. Kithama

Court:

Ruling delivered in the absence of the parties on reasons that I am on transfer to another station.



S.B. Bongole

Judge

3/8/2018