

**IN THE HIGH COURT OF TANZANIA**  
**(DODOMA DISTRICT REGISTRY)**  
**AT DODOMA**

***MISC AND APPLICATION NO. 41 OF 2019***

*(Arising from High Court of Tanzania at Dodoma in Land  
Appeal No. 45 of 2018, District Land and Housing Tribunal  
at Dodoma in Land Appeal No. 319 of 2017)*

**JULIANA F. MKWABI ..... APPLICANT**

**VERSUS**

**LAWRENT CHIMWAGA ..... RESPONDENT**

**RULING**

**Mansoor, J:**

**Date of Ruling – 01/11/2019**

The Applicant was the Respondent in Land Appeal o. 45 of 2013 in which the appeal which was filed by the Respondent herein was allowed by the High Court for the reasons that the Applicant herein failed to prove her title to the disputed land and that she failed to implead Dodoma Municipal Council as a necessary party.

Dissatisfied by that decision which was delivered on 16<sup>th</sup> April, 2019 hence this Applicant for leave to appeal before the Court of Appeal which was filed on 30<sup>th</sup> April, 2019 pursuant to section 47 (1) of the Land Disputes Courts Act, Cap 216 R.E. 2002 which require her to procure leave of this Court.

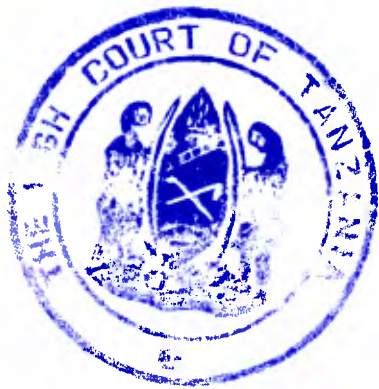
In substance the Applicant submitted to have been discontented with the issue of whether the effect of misjoinder or non-joinder of a party to the suit is to dismiss the suit or to allow the appeal or to quash the proceedings of the lower Court and order retrial, and thus she seeks leave to appeal to the Court of Appeal.

On the part of the Respondent herein he argued in the opposite that it was not necessary to go into the merit of the case because the issue was raised by the Court *suo motto* and the parties were given opportunity to argue and the Court conclusively determined the appeal.

Going into the wording of S. 47 (1) of the Land Disputes Courts Act, [Cap 216 R.E. 2002], the provision just require leave of the High Court when a dissatisfied party wants to appeal to the Court of Appeal.

In the application at land, the Applicant claims to be dissatisfied by the decision of this Court in Land Appeal No. 45 of 2018 which was delivered on 16<sup>th</sup> April, 2019.

It's the view of the decisions above, this sees that the Court application has merits and is granted with no orders as to costs since this application is a compliance procedure.



A handwritten signature in blue ink, appearing to read "L. Mansoor".

**L. MANSOOR**

**JUDGE**

**1/11/2019**