

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
AT KIGOMA
LAND APPEAL NO. 2 OF 2020**

*(From the decision of District Land and Housing Tribunal of Kigoma
District at Kigoma in Misc. Application No. 107 of 2019).*

MWATATU MARIA JUMA HASSAN.....APPELLANT

VERSUS

1. JUMA SIMON DARUKA

2. TUMAINI AMOS RUSIGWA

.....RESPONDENTS

RULING

Dated: 15/7/2020 & 15/7/2020

Before: Hon. A. Matuma,J

The appellant was an objector in the objection proceedings at the District Land and Housing Tribunal for Kigoma vide Misc. Land Application No. 107/2019.

She was objecting the order for attachment and sale the landed property on plot No. 676 Block M.D Mwanga Kigoma/Ujiji.

The objection was unsuccessful hence this appeal.

At the hearing of this appeal, the parties rose to argue a legal point that the impugned order is not appealable in terms of Order XXI Rule 62 of the Civil Procedure Code, Cap. 33 R.E 2019.

Mr. Ignatus Kagashe learned advocate for the 1st respondent and Mr. Kivyiro learned advocate for the appellant both had concurrent observation that this appeal has been misconceived as it was decided in

the case of ***Koretha d/o Makoye and Another versus Amos s/o Maganga, Misc. Civil Appeal No. 2/2004 High Court at Tabora*** unreported.

In terms of Order XXI Rule 62 of the CPC (supra), it is obvious that the order in the objection proceedings is final and conclusive.

The aggrieved party thereof is entitled to start a fresh suit in the competent Court to establish the claim.

This is due to the fact that in the investigation of the claim and objection proceedings, the parties have no way in which they may adduce evidence to establish the claim. They merely present documents and argue on them for the investigation of the Court.

The aggrieved party is then given a legal remedy to start a fresh suit to establish such a claim.

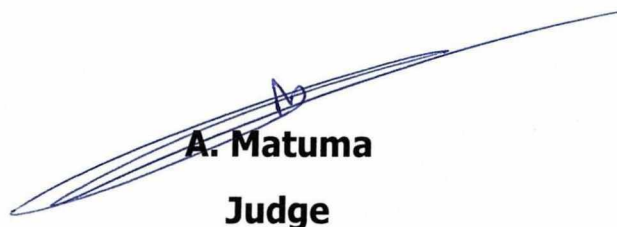
In the circumstances, I agree with both parties that this appeal has been misconceived and I accordingly dismiss it.

The appellant is at Liberty to start a fresh suit against the respondents in the competent Court in terms of Order XXI Rule 62 of the CPC (supra).

Taking into account that this appeal has not been decided on merits, I order no costs to either party. It is so ordered and any aggrieved party may further appeal.

It is so ordered.




A. Matuma
Judge

15/7/2020