

IN THE HIGH COURT OF UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF SONGEA

AT SONGEA

DC. CIVIL APPEAL NO. 14 OF 2019

***(Appeal originating from the Judgment and Decree delivered on
5th January, 2017 at Tunduru District Court, by Hon. Kaluyenda,
RM in a Civil Case No. 2 of 2016)***

TUNDURU DISTRICT COUNCIL APPELLANT

VERSUS

STATE BUSINESS CENTRE L.T.D RESPONDENT

RULING

Date of Last Order: 30/07/2020.

Date of Ruling: 30/07/2020.

BEFORE: S.C. MOSHI, J.

I am obliged to state at the outset that I have decided not to determine the appeal on its merits for the reasons that I will show herein. On 4/2/2020 we received a complaint letter by the appellant, the District Executive Director of Tunduru District Council alleging that the trial court magistrate, Hon. Kaluyenda, RM had written two different

judgments and decrees in respect of Civil Case No. 2/2016. The complaint was dully investigated.

The results of investigation confirmed the complaint, indeed, there were two Judgments and decrees in respect of the same civil case. The irregularity has both judicial and disciplinary repercussions. The disciplinary part was dealt with administratively. However, the appeal is still pending.

I addressed the parties accordingly. Mr. Isaya had nothing to add.

It is obvious that the pointed out irregularity is fatal. The Judgments and decrees cannot be left to stands. Wherefore, for the aforesaid reasons, do hereby quash and nullify both Judgments and decrees. I order that the Judgment should be composed afresh by a different magistrate with competent jurisdiction.

That said, the appeal is struck out. I further order that the case file should be remitted to Tunduru District Court immediately.

Orders.


S. C. MOSHI
JUDGE
30/07/2020