

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

MISC LAND APPLICATION NO. 25 OF 2018

(Originating from the High Court of Tanzania at Dodoma in
Land Appeal No. 18 of 2017)

**YAHAYA HAMISI MRESA (As Administrator of the APPLICANT
Estate of the late HAMISI MRESA)**

VERSUS

**1. MWAJUMA OMARI MBUVA
2. HASSAN MOHAMED NDEE
3. SALUM ISSA IBUVA** } **RESPONDENTS**

6/8/2020 & 8/9/2020

RULING

MASAJU, J

The Applicant, Yahaya Hamis Mresa, (Administrator of the Estate of the late Hamisi Mresa) through Chamber Summons Application made under section 47 (1) of the Land Disputes Courts Act, [Cap 216] and Rule 45 (a) of the Court of Appeal Rules, 2009 seeks leave of the Court to file an appeal in the Court of Appeal against the Respondents, Mwajuma Omari Mbuva, Salum Mohamed Salum (Administrator of the Estate of the late Hassani Mohamed Ndee) and Salum Issa Ibuva.

The Application is supported by an Affidavit sworn by the Applicant.

The Respondents filed in the Court their joint Counter Affidavit sworn by Mr. John Kuyela Kidando, their learned counsel.

When the Application was heard on the 6th day of August, 2020, both parties were represented. The Applicant was in service of Ms. Lilian Kimaro, learned counsel, while the Respondents were represented by Mr. Erick Christopher, learned counsel, who in the course of hearing of the Application he supported the Application and hence prayed the Court to ignore the Counter Affidavit filed by the Respondents and also prayed for no order for costs.

On her part, the learned counsel for the Applicant prayed to adopt the Applicant's Affidavit to form part of her submissions in support of the Application in the Court and conceded to the Respondents' prayer of no order to costs.

The Court is of the considered position that since the Applicant is dissatisfied with the decision of the Court in Land Appeal No. 18 of 2017 and since the Respondents do not contest the Application, it will be injustice to deny the Applicant leave to appeal to the Court of Appeal to pursue her right in the impugned land, if any. There might be points of law and/or fact to be considered by the Court of Appeal.

That said, the Application is hereby granted with no orders as to costs.



GEORGE M. MASAJU

JUDGE

8/9/2020