

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF BUKOBA
AT BUKOBA**

MISC. LAND CASE APPLICATION No. 62 OF 2020

(From Land Application No. 12/2018 & Land Application No. 26/20161 H/C and Land Application No. 168/2013 and Application 114/2011 DLHT)

JUSTA JACOBAPPLICANT

VERSUS

SAIDI ATHUMANIRESPONDENT

RULING

05th October & 08th October 2021

Kilekamajenga, J.

The applicant sought leave of this Court to appeal to the Court of Appeal of Tanzania. As the case originated from the Ward Tribunal, she also sought certificate on point of law before approaching the Honourable Court of appeal. The application was made by way of chamber application supported with an affidavit deposed by the applicant. In response, the response filed a counter affidavit resisting the application. When the application was called for hearing, the applicant appeared in person and was unrepresented. On the other hand, the respondent who had died was represented by the learned advocate, Mr. Lameck John Erasto. Before the oral submission, the counsel for the respondent informed the Court that the administrator of the estates of the respondent was already appointed. He tendered form No. IV proving that, Ramadhani S. Athuman was appointed the administrator of estate and therefore ready to take-over the respondent's case. The Court recognised the administrator and granted the order to take-over the respondent's case.



When invited to argue the case, the applicant who was unrepresented raised several issues urging the Court to grant leave to appeal to the Court of Appeal. She informed the Court that she elected a house on the disputed land after purchasing it from Mwijuka in 2009. Thereafter, Said Athuman arose claiming ownership of the land. In her argument, she assailed the Ward Tribunal for blatant bias and deciding in favour of the respondent.

Mr. Lameck John Erasto for the respondent resisted the application for failing to disclose any point of law to involve the Court of Appeal of Appeal. The counsel highlighted the background of the case and finally invited the Court to dismiss the application with costs.

When rejoining, the applicant raised two major points worthy of consideration thus: first, the dispute was determined by Bakoba Ward Tribunal while the land is located at Kitendanguro Ward. Second, one of the trial tribunal members declined from signing the judgment after noticing the unfair determination of the case.

Having considered the rival arguments from the parties, I find it opposite to determine the merit or otherwise of the instant application. I am alive of the fact that approaching the Court of Appeal of Tanzania needs leave which must be granted where the matter presents issues of public importance worthy of consideration. Leave to the Court of Appeal may also be granted where the case presents disturbing features inviting the intervention of the Court of Appeal of

Tanzania. Where there is a point of law involved, the Court may grant leave for the applicant to approach the Court of Appeal. In the instant application, I have carefully considered the voluminous case file and discovered disturbing features which may have affected the rights of the parties. For that reason therefore, I humbly invite the Court of Appeal to consider the following issues as points of law:

- 1) Whether Bakoba Ward Tribunal was right to determine the dispute while the land is located in another neighbouring Ward of Kitengangulo.*
- 2) Whether the decision of the Ward Tribunal which was not assented by the fourth member of the tribunal may be valid.*

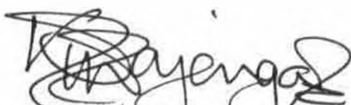
I hereby allow the application. No order as to costs. It is so ordered.

DATED at **BUKOB**A this 08th day of October, 2021.


Ntemi N. Kilekamajenga.
JUDGE
08/10/2021

Court:

Ruling delivered this 08th October 2021 in the presence of the parties all present in person.


Ntemi N. Kilekamajenga.
JUDGE
08/10/2021

