

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

CIVIL CASE NO.8 OF 2017

TANZANIA KULWA MATULA.....PLAINTIFF

Versus

KABISI KULWA.....1ST DEFENDANT

EMMANUEL KULWA.....2ND DEFENDANT

PAULO KULWA.....3RD DEFENDANT

NGWEGWE KULWA.....4TH DEFENDANT

NYANZOBE KULWA.....5TH DEFENDANT

MILU KULWA.....6TH DEFENDANT

YUNGE KULWA.....7TH DEFENDANT

Date of Last Order: 06/04/2020

Date of Ruling: 06/04/2020

RULING

C. P. MKEHA, J

The defendants have through Mr. Machaba learned advocate, raised and argued two points of preliminary objection. According to Mr. Machaba learned advocate, this court has no pecuniary jurisdiction to hear and

determine the present suit. Mr. Machaba learned advocate was of the view that, this being a normal civil suit, the court has no jurisdiction to grant reliefs ordinarily grantable in probate matters. The other point of preliminary objection is to the effect that there is no cause of action disclosed by the plaintiff as against all the defendants.

In the course of elaborating his points of objection the learned advocate submitted that in terms of the plaint the value of the subject matter is TSZ. 60,000,000/= hence the matter ought to have been filed at the District Land and Housing Tribunal. Section 33 of the Land Disputes Courts Act as amended by G.N No.4 of 2017 was cited.

The learned advocate submitted further that, given the manner in which the plaintiff had approached this court (by filing a plaint), it was not open for him (the plaintiff) to pray that he be granted reliefs that ought to be prayed in a probate petition.

The learned advocate went on to submit that the plaint offends Order VII Rule 12(a) of the Civil Procedure Code as there is no any specific allegation by the plaintiff alleging any claim as against the defendants. The learned

advocate insisted that, the claim if any is against the late Kulwa Matula and not the defendants.

Mr. Tuli learned advocate for the plaintiff started his reply submissions by conceding that indeed, this court lacks pecuniary jurisdiction to entertain the matter. He proceeded submitting that the land in dispute did not belong to the late Kulwa Matula but the plaintiff.

The learned advocate stressed that, in paragraphs 3 to 10 of the plaint the plaintiff gives facts consisting allegation against the defendants hence the cause of action is well pleaded.

Going through the contents of paragraphs 3 to 9 of the plaint facts consisting allegations of the plaintiff's claims against all the defendants are vivid. The plaintiff explains in the said paragraphs why is he suing the defendants. I agree with Mr. Tuli learned advocate that facts elaborating the way the Plaintiff's claim arose are given. The first preliminary point of objection is therefore without merit. The same is dismissed.

The learned advocate for the plaintiff has conceded that indeed, this court lacks pecuniary jurisdiction to entertain the matter, the reason being that, the value of the subject matter is estimated to be TZS. 60,000,000/=

hence, the matter ought to have been filed before the District Land and Housing Tribunal. It was Mr. Machaba's submissions that the court lacks pecuniary jurisdiction to entertain the matter. The Plaintiff's concession that this court indeed lacks pecuniary jurisdiction to deal with the matter, necessarily invites the court to issue the necessary order which is to dismiss the suit for want of jurisdiction. The suit is dismissed for want of jurisdiction.

Dated at **SHINYANGA** this **06th day of April, 2020.**



C. P. MKEHA
JUDGE
06/04/2020

Court: Ruling is delivered in the presence of the parties, Mr. Tuli for the plaintiff and Mr. Machaba for the defendants.

