

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**(DAR ES SALAAM DISTRICT REGISTRY)**

**AT DAR ES SALAAM**

**(APPELLATE JURISDICTION)**

**CIVIL APPEAL NO. 49 OF 2021**

*(Originating from the Judgement of the Kinondoni District Court in Matrimonial Appeal No. 70 of 2020 before Hon. Lyamuya, PRM)*

**MARK MSHANA.....APPELLANT**

**VERSUS**

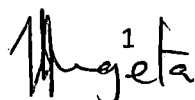
**REGINA MMASI.....RESPONDENT**

**JUDGMENT**

30/9/2021 & 26/10/2021

**I.C MUGETA, J.**

The dispute between the Parties is on division of the Matrimonial properties after the trial Court declared the parties' marriage as broken down irreparably. This is a second appeal. The trial Court declared that the parties have no Matrimonial properties. The District Court reversed the decision after finding that a house at Mbezi Luis located within the compound of the Church called World Alive Centre is a Matrimonial asset. The District Court agreed with the evidence of the appellant that the land on which the house is built was given to the appellant by his mother and the church built the house thereon for use of the head pastor who is the appellant and the respondent's husband. The appellant was aggrieved by the declaration that the house is matrimonial asset. He has appealed on



three grounds which on the hearing date he consolidated to one major complaint. That the first appellate court erred to declare the house as Matrimonial asset. He submitted that the house was built in 2011 while they married in 2014.

The respondent admitted the year of marriage and submitted further that they built the house during subsistence of that marriage.

I agree with the first appellate court that the land was given to the appellant as his personal property and it was developed for his use as head pastor hence a matrimonial asset. The first appellate Court divided the house at 60% share to the appellant and 40% to the respondent. The learned Principle Resident Magistrate considered domestic works by the respondent as her contribution in acquisition of the asset. I find no reason to fault this finding and for that reason I hold that the appeal has no merits. I dismiss it without orders as to costs.



*Mugeta*  
**I.C MUGETA**

**JUDGE**

**26/10/2021**

**COURT:** Judgment delivered in chamber in the presence of all parties who appeared in person, unrepresented.

**Sgd: I.C MUGETA**

**JUDGE**

**26/10/2021**