

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF KIGOMA

(LAND DIVISION)

AT KIGOMA

ORIGINAL JURISDICTION

MISC. LAND APPLICATION NO. 68 OF 2020

1. ELIAS SAMWEL

2. FLORA RAPHAEL

3. JUMA MVINZA

.....**APPLICANTS**

VERSUS

1. KAZURAMIMBA VILLAGE COUNCIL

2. SELEMANI NTIYUMVIGWA

3. UVINZA DISTRICT COUNCIL

4. HON. ATTORNEY GENERAL

.....**RESPONDENTS**

RULING

8th Feb.2021 & 08th Feb.2021

A. MATUMA, J

The three applicants are jointly seeking leave to file a representative suit in their behalf and on behalf of their fellows 23. They are thus 26 in total.

At the hearing of this application Mr. Raymond Kabuguzi learned advocate represented the applicants, Mr. Allan Shija learned state attorney in the

assistance of Mr. Zacharia Nzese legal Officer of the 3rd Respondent represented the 1st, 3rd and 4th Respondents while Mr. Ignatius Kagashe learned advocated represented the 2nd Respondent.

In their respective affidavits, the applicants, and the submission of their learned advocate, it is averred that the applicants and their 23 others claim against the respondents the same interest on a landed property situated at Kazuramimba village market within Uvinza District.

Mr. Kabuguzi submitted that the applicants and their fellows whose names are attached to this application by annexure "A" had contractual agreement with the 1st and 3rd respondents in which they each built a business stall on payment of the agreed amount.

That later when the construction was complete the applicants and their fellows came to realize that the 2nd respondent had sued the 1st respondent in the Ward Tribunal; and won the case on the same property.

That they tried to object execution of the decree but in vain and thus decided to commence a fresh suit to defend their interests in the dispute property. But due to the large number of the intended plaintiffs they agreed to have a representative suit. The applicants were appointed to represent them.

On their party the respondents did not object the instant application stating that what they have to say on this matter deserves to be argued in the main course.

It is my firm finding and as it has been argued by the parties, that this application be granted. This due to the fact that each person is entitled to sue on a matter he claims interest unless the matter is legally barred to be instituted.

In the instant matter there is nothing that deny the applicants to sue the respondents as they had never had any suit against them which is conclusively determined. They could even decide each to file a separate suit. It is immaterial that the respondents had a suit against themselves.

I also agree with Mr. Kabuguzi learned advocate that it would be inconvenient for all the 26 intended plaintiffs to enter appearance and prosecute their intended suit against the respondents.

The representative suit would serve the interest of justice and be convenient not only to the applicants and all intended plaintiffs, but also convenient to the Court and the intended defendants.

It would serve time for disposal of the matter for hearing few litigants rather than such huge number of litigants.

In the circumstances, I allow this application and grant leave to the applicants to file a representative suit in their behalf and on behalf of their fellows. A representative suit shall therefore, carry interests of the following intended plaintiffs, Elias Samwel Shan Katwikula, Hatibu Hamis, Godfrey Gervas, Kassiano Mabodo, Greyson Lyatuu, Sophia Manga, Mwanne Omary, Pascal Luhehe, Moshi R. Chongera, Flora Rafael, Hawa Adam, Josephat Kabitagi, Busago Nyoka, Bernadetha Isaya, Bigili Safania, Juma Mvinza, Pili Kibuye, Juma Kibuye, Hadija Kibuye, Mahombo Ntigwimbhugwa, Ayubu Said, Situmai Yassin, Zubeda Mohamed, Nuru Kashakali and Fokasi Mwanandenje. For avoidance of doubts, I direct that an updated list of the intended plaintiffs who are still eager to pursue the case against the intended defendants should be attached to the intended Complaint with a title clearly indicating that they have authorized their fellows herein to file a representative suit in their behalf. Each of them should sign in his or her respective name. No orders as to costs.

It is so ordered.




A. Matuma

Judge

8/2/2021

Court: Ruling delivered this 8th day of February, 2021 in the presence of the parties.

Sgd: A. Matuma

Judge

8/2/2021