

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF KIGOMA

(LAND DIVISION)

AT KIGOMA

APPELLATE JURISDICTION

MISC. LAND APPEAL NO. 14 OF 2020

(Arising from District Land and Housing Tribunal for Kigoma Misc. Land Application No. 16/2019 Before. F. Chinuku – Chairperson and Originating from land Dispute No. 2/2017 at Mkongoro Ward Tribunal).

WILLIAM KAPERA.....APPLICANT

VERSUS

NUHU ANDREA.....RESPONDENT

RULING

11th Feb.2021 & 11th Feb.2021

A. MATUMA, J

When this appeal came for hearing, I noted that the judgment and orders of the trial tribunal were pronounced adverse to the appellant who was not initially a party to the suit but who is said to have interest in the dispute property.

I asked the parties to address me on the anomaly and both advocates for the parties Mr. Silvester Sogomba and Ignatius Kagashe from the

appellant and respondent respectively agreed that indeed, the records of the trial tribunal is wanting.

They agreed that a trial de novo order would serve the interest of justice.

I agree with both advocates that the propriety of the proceedings of the trial tribunal is questionable.

First of all is the manner in which the appellant was dragged in the proceedings and finally been condemned unheard.

Secondly, the members who tried the matter, one of them had an interest to serve. This is Orida Amosi who is reported the sister in law of Nuhu Andrea, the Respondent. She even appeared before me in company of the Respondent's advocate making follow up of this case for her brother in law, the respondent.

In the circumstances, I step into the shoes of the District Land and Housing Tribunal and exercise Revisional powers which ought to have been exercised, and quash the judgment and proceedings of the trial tribunal and set aside the subsequent orders thereafter.

Since the appellant claims to be the owner of the Dispute shamba and accuses the respondent Nuhu Andrea to disturb him from peacefully enjoying the dispute shamba, I direct the appellant to commence the suit in the appropriate Court against Nuhu Andrea who shall also have

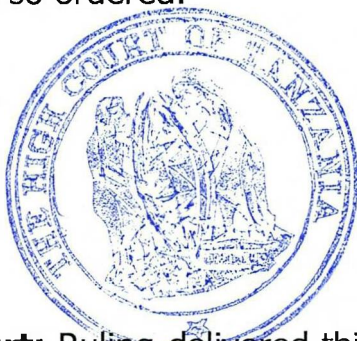
opportunity to enter his defence to defend his interests in the dispute shamba if any.

The suit should be commenced in not more than one month from today.

In the meantime, the status quo of the shamba be maintained i.e. neither party is allowed to use it until when the suit is filed and conclusively determined.

Failure of the Appellant to commence the suit within the period of one months as herein stated shall be constructed to mean that he has lost interest in the dispute property and the respondent may move the relevant Court to declare his interests in it. Appeal allowed to that extent. no orders as to costs.

It is so ordered.



A. Matuma

Judge

11/2/2021

Court: Ruling delivered this 11th February, 2021 in the presence of D.S. Sogomba learned advocate for the Appellant and Mr. Kagashe learned advocate for the Respondent.

Sgd: A. Matuma

Judge

11/2/2021

