

**IN THE HIGH COURT OF TANZANIA**

**IN THE DISTRICT REGISTRY**

**AT MWANZA**

**MISC. CIVIL APPLICATION NO. 141 OF 2020**

(Arising from the Judgment of the High Court of Tanzania at Mwanza (Hon. F. K. MANYANDA, Judge) dated 9<sup>th</sup> October, 2020, in PC Civil Appeal No. 24 of 2020)

**WILSON CHALANGA ..... APPLICANT**

**VERSUS**

**ALOYCE KITONGABATILO ..... RESPONDENT**

**RULING**

**17<sup>th</sup> Febr & 26<sup>th</sup> March, 2021**

**RUMANYIKA, J.:**

The application for leave is with respect to judgment and decree dated 09/10/2020 of this court (Manyanda, J.) for Wilson Chalanga (the applicant) to appeal to the highest fountain of justice. It is brought under Section 5 (1) (c) of the Appellate Jurisdiction Act Cap 141 R.E. 2019 and Rule 45 (a) of the Court of Appeal Rules, 2019. It is supported by affidavit of Wilson Chalanga whose contents the applicant adopted during the hearing.

Essentially, had it been condensed, the points raised by the applicant by way of a 3<sup>rd</sup> appeal to be considered by the Court of Appeal are:-

- (1) Whether the court assigned no reasons for quashing the decision of the 1<sup>st</sup> appeal court.
- (2) Whether or not in terms of analysis of the evidence and reasoning, the 1<sup>st</sup> appeal court's it was not worth the name a judgment.
- (3) Whether this court misapprehended the evidence on record.

When the application was, by way of audio teleconferencing called on 17/02/2021 for hearing, parties were, through mobile numbers 0748476061 and 0758447890 respectively heard on line and;

Unusually briefly, the applicant submitted that this court condemned him unheard much as the respondent only tried to obtain the disputed land fraudulently.


Equally so very briefly, the respondent submitted that the application lacked merits as there was nothing to fault this court. That is it.

The central issue, and it both trite law and bottom line is whether the three points raised are of such general importance and of a disturbing nature if leave was granted, by way of appeal arguable in the Court of Appeal of Tanzania much as for this purposes, by so doing this court shall not reduce itself into a conduct pipe nor shall it rehear the 2<sup>nd</sup> appeal or

determine the application on the basis of what would have been my decision if I seated in the Court of Appeal of Tanzania.

Twice and thrice having gone through the entire record and therefore the evidence and the impugned judgment, I was unable to see any single point of general importance by way of appeal arguable in the highest fountain of justice frankly (Case of **Hamisi Mdinda & Another v. The Registered Trustees of Islamic Foundation**, Civil Appeal No. 232 of 2018 (CA) unreported).

The devoid of merits application is dismissed with costs.

  
**S. M. RUMANYIKA**  
**JUDGE**  
**05/03/2021**

The ruling is delivered under my hand and seal of the court in chambers this 16/03/2021 in the absence of the parties.



  
**S. M. RUMANYIKA**  
**JUDGE**  
**16/03/2021**