

**IN THE HIGH COURT OF TANZANIA  
(DODOMA DISTRICT REGISTRY)  
AT DODOMA**

**MISC. LAND APPLICATION NO. 37 OF 2020**

**BETWEEN**

**SAID RAJABU.....APPLICANT**

**VERSUS**

**SEVERINE MAIRE DEURI.....1<sup>ST</sup> RESPONDENT**

**LUCIA BEATUS.....2<sup>ND</sup> RESPONDENT**

**RULING**

**Date of Ruling- 26<sup>TH</sup> FEBRUARY 2021**

**Mansoor, J:**

Being aggrieved by the decision of this Court in Land Appeal No. 34 of 2018, dated 11 May 2021, the Applicant filed an application for leave to appeal against that decision to the Court of Appeal of Tanzania. The Application is supported by an affidavit of Said Rajabu.

By leave of the Court, this Application was argued by way of written submissions.

The Applicant states that, prima facie, in this application, there are grounds of appeal which merit serious judicial consideration and the Applicant have demonstrated an arguable case. The Appellant also submits that the matter raises serious contentious issues of law for consideration by the Court of Appeal.

The grounds of the intended appeal are as contained in the affidavit of Said Rajabu as well as the submissions of Counsel Kalonga, the Counsel representing the applicant, and these are:

1. Whether Application No. 46 of 2018 filed at the District Land and Housing Tribunal was Res Judicata.

In objecting the application, the Respondent filed detailed submissions saying the applicant did not comply with the order of the court and filed the written submissions beyond the time fixed by the Court. I shall disregard this objection as the submissions were filed on time as evidenced by the exchequer receipt which was dated 18<sup>th</sup> December 2020, and this is the date of filing the submissions.

The respondents also argued that this application and the intended appeal have no merits. They argued further that the Ruling by Hon. Judge Masaju was well reasoned, and it was in conformity with the applicable law, that the Ruling did not contain any illegalities to justify leave to Appeal to the Court of Appeal. They said, the matter was not res judicata and parties do have a chance to litigate to the end.

I have read and carefully considered the rival submissions of the Counsels for both the Applicant and the Respondents, and I am satisfied that the Applicant in his grounds of Appeal and in the submissions has raised the grounds of appeal which prima facie merits serious judicial consideration by the Court of Appeal. The matter raises serious contentious issues of law for consideration by the Court of Appeal. This Court is not sitting as an appellate Court and what is required for now is not to embark on the merits of the intended appeal, it is sufficient to only consider the grounds of appeal, and in my view the grounds of appeal merit serious judicial consideration of the Court of Appeal in particular the issue of whether

the second case filed at the District Land and Housing Tribunal involving different parties, but on the same subject matter was not Res Judicata.

Based on the above, and consequently the Applicant is granted leave to appeal to the Court of Appeal within the time prescribed by the law.

Application is hereby granted, and costs shall follow the events.

**DATED at DODOMA this 26<sup>th</sup> day of FEBRUARY 2021.**



  
**MANSOOR**

**JUDGE**

**26<sup>th</sup> FEBRUARY, 2021**