

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
[IN THE DISTRICT REGISTRY]**

AT ARUSHA

PC CIVIL APPEAL NO. 10 OF 2019

*(C/F Civil Appeal No. 33 of 2018 at the District Court of Arusha,
Matrimonial Cause No. 30 of 2018, Arusha Urban Primary Court)*

SUZAN ISAAC.....APPELLANT

Versus

ROLAND HENRY KIMARIO.....RESPONDENT

RULING

17/02/2021 & 26/02/2021

MZUNA, J.:

This court adjudged an appeal on the issue of division of matrimonial house which was acquired during the subsistence of the above mentioned parties before the dissolution of the marriage on 20th April 2018. **Suzan Isaac**, instituted a suit in the Arusha urban Primary court against **Roland Henry Kimario**, claiming among others for divorce, custody of children, maintenance and division of matrimonial assets.

This court determined the above points vides PC Civil Appeal No. 10/2019 save for issue of custody of three children of the marriage aged

about 15 years, 12 years and another who was estimated to be above 7 years. Section 39 (2) (d) of the Child Act, (Act No 21/2009) requires that ***"the views of the child, if the views have been independently given"*** must be taken into consideration before making such an order and or under (g) ***"any other matter that the court may consider relevant."***

The court mindful of the fact that the interest of the children must be taken into consideration, on 10.11.2020 directed the Social Welfare Officer one Navonaiya to submit social inquiry report by 17/2/2021 under Rule 72 (1) and (4) of the Law of the Child (Juvenile Court Procedure) GN No 182 of 20/05/2016. The Primary court placed custody to the respondent for the reasons that he was paying fees and are registered in a boarding school, to the contrary, the District court placed custody to the appellant because they are female children. It is noteworthy that there was no cross appeal.

In view of this and to avoid delay for any aggrieved party to lodge appeal if any, I dispense with the said requirement. The order of the District court which was not appealed against, is hereby confirmed. All three children should remain with the appellant. The respondent should continue to maintain them as per the District court order.

This order is made under section 39 (2) (g) of the Child Act, (Act No 21/2009) based on **"any other matter that the court may consider relevant"**, that is there is no cross appeal.

Order accordingly.



M. G. MZUNA,
JUDGE.
26/02/2019.