

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

AT MWANZA

LAND CASE REVISION NO. 03 OF 2021

(Arising from the District land and Housing Tribunal Land Appeal No. 38/2020 from Land Case
No. 159/2020 of Nyegezi Ward Tribunal)

EDINA CHELEHANI.....APPLICANT

VERUS

ANASTAZIA PETRO.....RESPONDENT

RULING

10th & 31th May 2021

RUMANYIKA, J.

With respect to judgement and decree dated 19/2/2021 of the District Land and Housing Tribunal for Mwanza (the DLHT), the application was under a certificate of urgency lodged on 2/4/2021 for revision. With respect to a stretch of land, according to records part of road reserve located at Kuzenza area, Marimbe Road Mwanza at Nyegezi, the trial ward tribunal and now the DLHT having had decided it in favour of Anstazia Petro (the respondent). The application is supported by affidavit of Edna Chelehani whose contents the applicant adopted during audio telecomferencing on 10/05/2021. Unlike the respondent, Edina Chelehani (the applicant) was represented by Ms. Nzaniye Karubtse learned counsel.

Parties therefore were heard through mobile numbers 0626 670 525 and 0683 473 837 respectively.

Unusually briefly, Ms. Nzaniye Karubtse learned counsel submitted that the DLHT wrongly upheld decision of the trial tribunal because since 2016 the disputed stretch of the land was declared road reserve therefore the same belonged to no one other than Mwanza City Council Authorities. That is it.

On her side, the respondent submitted that there was nothing upon which to fault the two tribunals below much as the disputed plot belonged to her, she did not default land rents and she had some tenants around inclusive of the licenced applicant but now the latter had turned hostile. That is all.

A brief account of the evidence ran thus; according to the applicant that before year 2019 she had the disputed stretch of Road Reserve been renewably leased to her for six (6) months by the late Joseph Nyange (father in law) like saying that in effect no one of the parties owned it. That is it.

The respondent stated that now in dispute actually it was part of road reserve she therefore urged the respective authorities to arrest the situation.

Now that the parties had cut the long story short, with all undeniable facts, among others that the disputed stretch of land was but a road reserve, the issue now is no longer whom between the parties lawfully owned it but rather whether the respondent lawfully occupied it thence on

that one exercising only right of possession and use. The answer is in the affirmative.

Like in blacks and whites both confirmed it, on such terms and conditions the disputed land may have been licenced to the applicant by the late father in law yes, but now that the survivor lawful occupier (mother in law) had restored it, like the lower tribunals concurrently held the applicant should not have resisted/turned hostile leave alone with respect to the road reserve the deceased licensor having had no title to pass to the applicant the Applicant did not implead the respective City Council Authorities in the first place or even bring them as witnesses. It goes without more words therefore that until such time when the said Mwanza City Council Authorities had otherwise acted, the respondent will remain the lawful occupier and user of the disputed stretch of land. The devoid of merits application is dismissed with costs. It is so ordered.



S. M. Rumanyika

JUDGE

26/05/2021

The ruling delivered under my hand and seal of the court in chambers this 31/05/2021 in the absence of the parties.



S. M. Rumanyika

JUDGE



31/05/2021