

IN THE HIGH COURT OF TANZANIA

IN THE DISTRICT REGISTRY

AT MWANZA

MISC LAND APPLICATION NO. 88 OF 2020

(Arising from decision in Land Appeal No. 79 of 2019 emanating from judgment and decree of the District Land and Housing Tribunal for Chato in Land Application No. 40 of 2017 decision of 11st of November, 2019)

DOTTO PHILOPO MCHELEMICHELE 1st APPLICANT

BONIPHACE MUSA NDEKEJA 2ND APPLICANT

DEUS KALIDUSHA 3RD APPLICANT

VERSUS

THE KIRURUMA VILLAGE COUNCILRESPONDENT

REASONS FOR THE DECISION

2nd & 30th June, 2021

RUMANYIKA, J.:


When, with respect to judgment and decree dated 14/8/2020 of this court (Ismail, J) the application for leave for Dotto Philipo Mchelemchele and 2 others (the applicants) were, by way of audio teleconference called on 2/6/2021 for hearing, Messrs S. Kazenga nad Z.K Ally learned counsel appeared for the applicants and Kiruruma Village Council (the respondent). I heard them through mobile numbers 0686702308 and 0766272495 respectively.

From the outset therefore readily, of course pursuant to proceedings of 20/4/2020 the parties having had intimated and they promised to settle, but down the road they failed and reported as such on 2/6/2021, Ms. Z. K. Ally learned counsel readily conceded to the application. Then for obvious reasons Mr. S. Kazenga learned counsel had no rejoinder or further comments. I granted the application and reserved the reasons.


Should the application be granted, the 3 points sought to be determined by the Highest fountain of justice they revolve around evaluation of the evidence as reproduced as under:- **(i)** whether the first appellate judge was right confirming it and holding that no tax was paid while the applicants had annexed copy of the respective receipt **(ii)** whether the first appeal court was right to hold that the applicants were required to prove it beyond reasonable doubts while the matter in issue was civil in nature **(iii)** whether the first appeal court was right for its failure to note that the respondent's evidence was too weak to make the applicant's case unsuccessful.

As general important as were, by way of a 2nd appeal now that as said the points for determination by the Court of Appeal they revolved around evaluation of the evidence on record, also with the respondent's

counsel's concession, I shall have no option other than to agree with both learned counsel. It is for this reason that I granted the application on 2/6/2021.


S. M. RUMANYIKA
JUDGE
30/06/2021

The reasons delivered under my hand and seal of the court in chambers this 30/6/2021 in the absence of the parties.


S. M. RUMANYIKA
JUDGE
30/06/2021