

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(IN THE DISTRICT REGISTRY OF KIGOMA)

AT KIGOMA

LAND DIVISION

(APPELLATE JURISDICTION)

MISC. LAND APPLICATION NO. 25 OF 2021

(Arising from Land Application No. 37/2017 of the District Land and Housing Tribunal of Kigoma before Mwinyi M. Chairman)

AUGUSTINO S/O GABO NDABASUMBIKI.....APPLICANT

VERSUS

STEFANO S/O WILSON MAGWANGALA RESPONDENT

R U L I N G

08th & 08th July, 2021

A. MATUMA, J.

When this application came for hearing of the applicant's prayer for extension of time within which to appeal out of time, Mr. Silvester Damas Sogomba learned advocate for the respondent rose to argue a point of preliminary objection to the effect that the decision upon which extension is sought to be appealed against takes its origin in the matter which started in the Ward Tribunal. In the circumstances, the relevant provisions upon which extension should have been sought was section 38 (1) of the Land Disputes Courts Act, Cap. 216 R.E. 2019 and not section 41 (2) of the same Act as referred to in the chamber summons which are

relevant only if the impugned decision resulted from the District Land and Housing Tribunal in the exercise of its original jurisdiction.

Mr. Masendeka Ndayanse learned advocate for the respondent conceded to the objection and prayed that this application be struck out without costs.

Mr. Sogomba insisted for costs as he contends that the applicant is still eager to drag his client in court and thus costs should be awarded to avail him opportunity to cover the costs in some future litigations.

Without much ado, I agree with both parties that this application has been brought under wrong citations of the relevant provisions of the law. The same is incompetent and accordingly struck out.

About costs, Mr. Ndayanse readily conceded to the objection. He did not trouble the court and even the respondent to argue the objection. In the circumstances, I order no costs to either party. It is so ordered.




A. Matuma

Judge

08/07/2021

Court: Ruling delivered in the presence of Advocate Masendeka Ndayanse for the applicant and Advocate Damas Sogomba for the respondent. Both parties in person are also present.

Sgd: A. Matuma

Judge

08/07/2021