

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(IN THE DISTRICT REGISTRY OF BUKOBA)

AT BUKOBA

LAND CASE APPEAL No. 57 OF 2020

*(Arising the District Land and Housing Tribunal for Kagera at Bukoba in
Application No. 31 of 2015)*

ROVITHA RUGIMBANA ----- APPELLANT

Versus

1. RUGAMBWA CYRIL PESHA

2. KARAGWE DISTRICT COUNCIL ----- RESPONDENTS

JUDGMENT

01.07.2021 & 01.07.2021

Mtulya, J.:

On 10th November 2016, the **District Land and Housing Tribunal for Kagera at Bukoba** (the Tribunal) in **Application No. 31 of 2015** (the Application) delivered a page Ruling emanated from three (3) grounds of preliminary objection on point of law registered by Mr. Aaron Kabunga for Mr. Rugambwa Cyril Pesha (the First Respondent) to resist the Application. The points of law were argued by way of oral submissions on 23rd September 2016 and finally the Tribunal struck out the Application with costs. The Ruling dissatisfied, Mr. Rovitha Rugimbana (the Appellant) hence preferred **Land Case Appeal No. 57 of 2020** (the Appeal) in this court

attached with five (5) grounds of appeal. Ground number two (2) of the Appeal shows in brief that the learned Chairman erred in law by striking out the Application without giving reasons or considering submissions registered by the Appellant.

Today morning the appeal was scheduled in Civil Session Cases hearing and after a short discussion of learned counsels, Mr. Kabunga for the First Respondent and Ms. Pilly Hussein for the Appellant, it came to the light that ground number two of the appeal holds merit. According to Mr. Kabunga the Ruling of the Tribunal was delivered without facts, reasons and did not consider submissions of learned counsels in the dispute hence it cannot stand in the eyes of the law.

To his opinion, the Tribunal was required to discuss and consider the facts of the Application and three (3) points of objection *viz:* time barred, *locus standi* and notice of intention to sue the Second Respondent, Karagwe District Council. This move was supported by Ms. Pilly for the Appellant who briefly stated that the Ruling has faults and must be quashed for fairness of the proceeding and the Ruling.

I visited the one page Ruling of the Tribunal and found the following text:

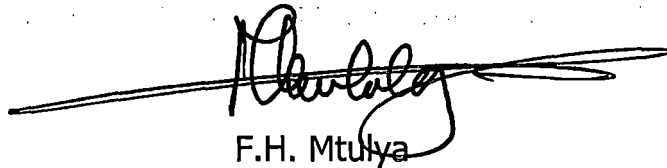
It is true that all the three points have merit so the Preliminary Objection is upheld. That this application is therefore struck out with costs. It is so ordered.

This holding of the Tribunal was not supported with either facts or reasoning, let alone mentioning of the three (3) points in dispute. Ruling of this kind cannot be allowed to stand in the record. It violates the requirement of the contents of ruling or judgment which require brief statement of facts, issues, and holding of the issues supported by reasoning. This is a court of law and has additional duty in making sure that the tribunals below apply the law properly without any faults [see: **Diamond Trust Bank Tanzania Ltd v. Idrisa Shehe Mohamed**, Civil Appeal No. 262 of 2017]. Any decision of the Tribunal in ruling or judgment which does not contain brief statement of facts, issues, holding of the issues and reasoning, shall not stand in the record when protested in this court.

Having said so, I have decided to quash the Ruling of the Tribunal delivered on 10th November 2016 with respect to three (3) points of the objection. I therefore order, the proceedings in **Application No. 31 of 2015** registered in the Tribunal to proceed from where it was ended before the determination of the objection. I further order the Application be heard and determined to another

pair of the Tribunal in accordance to the laws regulating running of the businesses of the Tribunal. I therefore allow the appeal without costs. The faults were caused by the Tribunal without control of the parties.

It is so ordered.

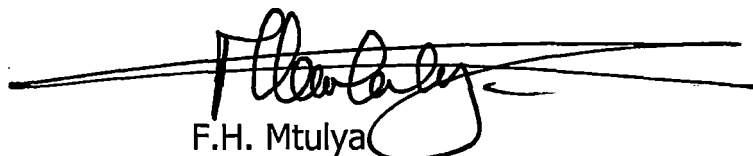


F.H. Mtulya

Judge

01.07.2021

This judgment was delivered in chambers under the seal of this court in presence of learned counsel Mr. Aaron Kabunga for the Respondent and in presence of Ms. Pilly Hussein for the Appellant.



F.H. Mtulya

Judge

01.07.2021

