

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

**LAND CASE APPEAL No. 112 OF 2020**

*(Originating from Muhutwe Ward Tribunal Civil Case No. 05/2014 and Bukoba DLHT Land Appeal No. 85/2018)*

**MUHAJIR SUED.....APPLICANT**

***VERSUS***

**SELESTINE MICHAEL RUMANYIKA ..... RESPONDENT**

**JUDGMENT**

*16<sup>th</sup> June & 09<sup>th</sup> July 2021*

***Kilekamajenga, J.***

The appellant appeared before this Court challenging the decision of the District Land and Housing Tribunal. To move this Honourable Court, the appellant raised five grounds of appeal. When the matter came for hearing, the respondent did not appear despite being served with the summons to appear. This Court ordered matter to proceed in absence of the respondent.

During the oral submission, the appellant prayed to adopt the grounds of appeal as they appear in the petition of appeal. He further submitted that the disputed land is 59 acres located at Bisole village, within the ward of Muhutwe. Also, there are three class rooms within the disputed land which are owned by Baraza Kuu la Waislam Tanzania (BAKWATA). He alleged that the Islamic organisation owned the land since 1959. By that time, the land was owned by the East African

Muslim Welfare Society. However, the respondent sued the appellant before the Ward Tribunal claiming for the ownership of the land. The respondent claimed that the land is empty while there is a school on the disputed land. He insisted that the lawful owner of the land is BAKWATA and that the respondent had no right over the disputed land. He finally urged the Court to allow the appeal.

In disposing of this appeal, there are two issues pertinent for discussion. First, whether the Ward Tribunal had jurisdiction to entertain the land of 59 acres and whether the land belongs to the appellant or BAKWATA as alleged. On the first issues, there is evidence featuring in the records of the Ward tribunal that the dispute arose after the Islamic organisation commenced construction of class rooms at the disputed land. That fact proves the allegation levelled by the appellant that the land has three class rooms. Despite the existence of the fact that the land is about 59 acres, it also has class rooms. It is therefore questionable whether the ward tribunal had jurisdiction to determination the disputed land. This fact further featured in the grounds of appeal filed at the District Land and Housing Tribunal though it was not addressed by the appellate tribunal. According to the law, a Ward Tribunal is seized with jurisdiction to determine a land dispute whose value does not exceed Tshs. 3,000,00/=.

**Section 15 of the Land Disputes Courts Act, Cap. 216, Re 2019** provides:

*"Notwithstanding the provisions of Section 10 of the Ward tribunal Act, the jurisdiction of the tribunal shall in all proceedings of a civil nature relating to land be limited to the disputed land or property valued at three million shillings."*

In my view, such a vast land (mbuga) which also has class rooms and planted trees may have exceeded the pecuniary jurisdiction of the Ward tribunal.

On the second issue, the appellant alleged that the land belongs to BAKWATA. Such information is also stated in the evidence of the respondent. In fact, the evidence of the appellant at the ward tribunal clearly shows that the appellant is not the lawful owner of the disputed land. Throughout his evidence, the appellant stated that the land belongs to BAKWATA. In my view, the proper party in this suit was BAKWATA and not the appellant. The appellant has consistently denied ownership of the land and therefore cannot be forced to own the same.

Based on the above reasons, I hereby allow the appeal and quash the proceedings of the Ward Tribunal and that of the District Land and Housing tribunal as the Ward tribunal had no jurisdiction to entertain this matter. I also set aside the decision of the two lower tribunals. The parties are hereby restored

to their previous position until any interested party files a case against a proper party. It Is so ordered.

Dated at Bukoba this 09<sup>th</sup> July 2021.

  


**Ntemi N. Kilekamajenga**  
**Judge**  
**09<sup>th</sup> July 2021**

#### **Court**

Judgement delivered this 09<sup>th</sup> July 2021 in the presence of the appellant and in absence of the respondent. Right of appeal explained.

  


**Ntemi N. Kilekamajenga**  
**Judge**  
**09<sup>th</sup> July 2021**