

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

**CIVIL REFERENCE No. 6 OF 2019**

*(Arising from the Korogwe District Land and Housing Tribunal in the Application  
for Bill of Costs No. 94 of 2018 Originating from Land Application No. 21 of 2014)*

**BAKARI MDOE ----- APPLICANT**

**Versus**

**1. THOMAS LONGONI** }  
**2. KIPAMBA LESAITO** } ----- **RESPONDENTS**

**RULING**

28.07.2021 & 28.07.2021  
F.H. Mtulya, J.:

The **District Land and Housing Tribunal for Korogwe at Korogwe** (the Tribunal) was invited to determine an application for Bill of Costs in **Application No. 94 of 2018** (the Bill of Costs Application) emanating from **Application No. 21 of 2014** (the Application) between Bakari Mdoe (the Applicant) and Thomas Longoni & Kipamba Lesaito (Respondents).

After observing the submissions of the parties, the Tribunal in its two paragraphs' Ruling stated that the Tribunal lacked jurisdiction to determine the matter. The reasoning of the Tribunal was that: *the main suit of the land is still pending at Kilindi District Land and Housing Tribunal at Kilindi*. However, the Tribunal was silent on the

application number or parties and whether the Respondents complied with two months order in filing a fresh and proper suit in the tribunal with competent jurisdiction as per Tribunal's order delivered in the Bill of Application.

When this Application for Reference was scheduled for hearing today, Mr. Switbert Rwegasira for the Applicant briefly submitted that the order was not complied with and the Tribunal was misled by the Respondents as there was no any pending suit in any tribunal of competent jurisdiction and that their right to be heard and determined in the Bill of Costs Application was curtailed by the Tribunal without any justifiable cause.

The submission of Mr. Rwegasira was supported by learned counsel for the Respondents, Mr. Obediodom Chanjarika who stated that the order was not complied with and in any case the Respondents had preferred **Land Case No. 4 of 2020** in this court with different parties including the Village Council of Elerai, which was not a party in the Application.

After the conclusion of the hearing of this Reference, both learned minds were in agreement that the decision of the Tribunal be quashed and for the need of fair trial, the Tribunal may be ordered to proceed with the hearing of the Bill of Costs Application.

However, the parties differed on the issue of costs. According to Mr. Rwegasira they have been coming to this court since filing of the Reference in 2019 and it was the Respondents' counsel who raised all the faults in the Tribunal whereas Mr. Chanjarika thinks that the error was committed by the Tribunal and the Respondents cannot be blamed for costs.

I have perused the record of this appeal and learned that the Tribunal at page 2 of the order in the Application on 18<sup>th</sup> April 2018 issued an order stating that:

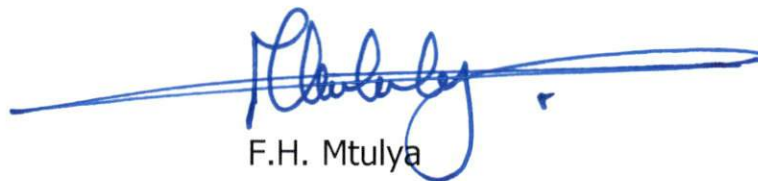
*This applicant's prayer and the whole matter is withdrawn as prayed with liberty to refile it, for the directives that, if they will fail to refile it afresh within two (2) months from the date of this ruling, the Respondent will have the right to claim for costs of this Application. Thus, they shall file their Application on or before 18/06/2018.*

Today, when the appeal was called for hearing in this court, both learned counsels for the parties were in agreement that the cited order of the Tribunal was not complied with by the Respondents. To comply with the order, the Applicant on his part filed the Bill of Costs Application in the Tribunal. However, the Tribunal declined to grant the Application for a reason of lack of

jurisdiction. In my considered opinion, as the Application was determined by the Tribunal to the finality at Korogwe and its record is preserved in the Tribunal at Korogwe, it cannot escape to exercise its mandate in the Bill of Costs Application filed in the same Tribunal for the reason of lack of jurisdiction.

Having said so, and considering submissions of learned minds in this Refence, I hereby restore the Bill of Costs Application in the Tribunal to proceed with the hearing to the finality of the matter in accordance to the laws regulating businesses of the Tribunal. I award no costs in this Application as learned counsels acted as gentlemen officers assisting this court in arriving at justice. In any case the Tribunal blessed the submissions of the respondent in the Tribunal hence it has contribution to the present Reference.

It is so ordered.



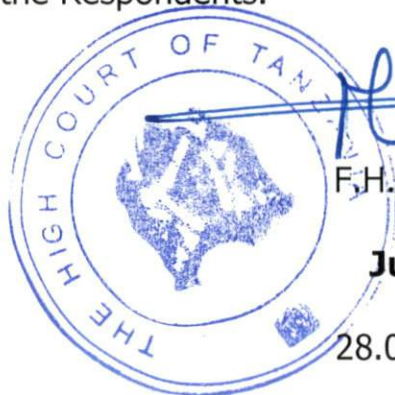
F.H. Mtulya

Judge

28.07.2021



This ruling is delivered in presence of learned minds, Mr. Mr. Switbert Rwegasira for the Appellant and Mr. Obediodom Chanjarika for the Respondents.



  
F.H. Mtulya

**Judge**

28.07.2021