

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
(LAND DIVISION)**

**IN THE DISTRICT REGISTRY OF TANGA**

**AT TANGA**

**LAND CASE APPEAL No. 19 OF 2021**

*(Originating from the District Land and Housing Tribunal for Lushoto at Lushoto in  
Land Application No.1 of 2017)*

**SAIDI JUMA SINGANO ----- APPELLANT**

[Administrator of the Estates of the late

Juma Singano Mdoe]

**Versus**

**1. KWEMASHAI VILLAGE COUNCIL**  
**2. ZANZIBAR TELECOMS (T) LTD** } ----- **RESPONDENTS**

**JUDGMENT**

28.07.2021 & 28.07.2021

F.H. Mtulya, J.:

On 25<sup>th</sup> May 2021, the **District Land and Housing Tribunal for Lushoto at Lushoto** (the Tribunal) was invited to hear and determine a total of six (6) land disputes filed in its registry in: **Land Application No. 1 of 2017** (the Application); **Land Application No. 12 of 2018**; **Land Application No. 70 of 2015**; **Land Application No. 11 of 2019**; **Land Application No. 5 of 2018**; and **Land Application No. 18 of 2018** (the Applications). The disputes concerned different parties with different lands. However, in all

matters the village and district councils in various authorities were prosecuted. Noting of the presence of the village and district authorities in the Application and new enactment in section 25 of the **Written Laws (Misc. Amendment) Act No. 1 of 2020** (the Amending Act), which amended section 6 of the **Government Proceedings Act** [Cap. 5 R.E. 2019] (the Act) to require joining of the Attorney General as a necessary party in any civil proceedings brought under section 3 of the Act and where the Government has interest on the subject matter, the Tribunal decided to dismiss the Applications.

The applicants in the Applications were not satisfied and on different occasions approached this court seeking intervention and interpretation of this court on whether the new enactment in February 2020 can affect suits filed between 2015 and 2019. It was fortunate that both parties were represented by learned minds, namely: Mr. Ally Kimweli for the Appellant, Mr. Henry Njowoka for the Second Respondent and Mr. Rashid Mohamed & Shafii Rugine, learned State Attorney & Lushoto District Council Solicitor respectively for the First Respondent.

When the learned minds were given the floor in this court, Mr. Kimweri briefly submitted that the Application was filed in the

Tribunal on 16<sup>th</sup> March 2016 before amendment in section 6 of the Act via the Amending Act in 2020 hence the amendment does not affect the Application.

To bolster his argument, Mr. Kimweri cited the authority of this court in **Theodory Joseph Kamote & Another v. Serikali ya Kijiji Cha Irente**, Land Case Appeal No. 21 decided in this court in morning hours of 28<sup>th</sup> July 2021. His submission and citation of the precedent were received well by the Respondents' learned minds. According to Mr. Shafii the law alterations in section 6 of the Act registered by the Parliament in section 25 of the Amending Act did not affect suits which already existed in the tribunals and therefore this appeal may be allowed in favour of proper application of the laws. This thinking was also shared by learned counsel Mr. Njowoka for the Respondent.

I visited sections 3, 6, and 22 of the Act and 25 of the Amending Act and learnt that the sections were well appreciated by the Tribunal in the Application and this court in the precedent of **Theodory Joseph Kamote & Another v. Serikali ya Kijiji Cha Irente** (supra). The gathering from the discussions in the two stated decisions show that the amendment in section 6 registered in 2020 cannot apply retrospectively to affect suits filed before 2020, as the



provision in section 22 of the Act provides an answer to the dispute. As there is precedent of this court in place, this court cannot detained to interpret the same sections in the same statutes.

Having noted the dispute has been settled, and there is precedent of this court on record, this court will follow the course for the sake of certainty and predictability of the decisions emanating in this court. I have, therefore, decided to quash the decision of the Tribunal in the Application in favour of section 22 of the Act. I further order the Tribunal to proceed with the dispute from where it halted the proceedings as it has the jurisdiction to determine the matter.

It is so ordered.



F. H. Mtulya

**Judge**

28.07.2021

This judgment was delivered in Chambers under the seal of this court in the presence of the Appellant Mr. Saidi Juma Singano and his learned counsel Mr. Ally Kimweri and in the presence of Mr. Henry Njowoka for the Second Respondent and Mr. Rashid Mohamed & Shafii Rugine for the First Respondent.



F. H. Mtulya

**Judge**

28.07.2021