

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(LAND DIVISION)

IN THE DISTRICT REGISTRY OF TANGA

AT TANGA

LAND CASE APPEAL No. 24 OF 2021

*(Originating from the District Land and Housing Tribunal for Lushoto at Lushoto in
Land Application No. 18 of 2018)*

- | | | |
|------------------------------|---|------------------|
| 1. MUHIDINI ATHUMANI KIPINGU | } | ----- APPELLANTS |
| 2. MOHAMEDI ATHUMANI KIPINGU | | |
| 3. HAMZA ATHUMANI KIPINGU | | |
| 4. HASSANI RAMADHANI MFUNGUO | | |

Versus

- | | | |
|----------------------------|---|-------------------|
| 1. ABDI CHAUSA | } | ----- RESPONDENTS |
| 2. KILUWA SHEMVAA | | |
| 3. MUHSINI BAKARI | | |
| 4. SAIDI JUMA & | | |
| 5. TULIANI VILLAGE COUNCIL | | |

JUDGMENT

28.07.2021 & 28.07.2021

F.H. Mtulya, J.:

A dispute on interpretation and application of section 6 of the **Government Proceedings Act** [Cap. 5, R.E. 2019] (the Act) after alterations of the same via section 25 of the **Written Laws (Misc. Amendment) Act No. 1 of 2020** (the Amending Act), passed by the Parliament on 28th January 2020 which came into force on 21st

February 2020, was filed in this court in **Land Appeal Case No. 24 of 2021** (the Appeal). The dispute is: *whether the trial tribunal failed to interpret section 22 of the **Government Proceedings Act** [Cap. 5, R.E. 2019].*

However, before the dispute was scheduled for hearing, Mr. Henry Njowoka, learned counsel who appeared for the Appellants, informed this court that there is already precedent in this court regarding the issue. When he was given the floor to state the precedent, Mr. Njowoka submitted that there is a holding in similar issue in the precedent of **Theodory Joseph Kamote & Another v. Serikali ya Kijiji Cha Irente**, Land Case Appeal No. 21 of 2021, and prayed for this court to abide with the precedent. The prayer was received well by learned Solicitor for the Fifth Respondent, Mr. Shafii Rugine, who briefly stated that he is aware of the precedent.

I have had an opportunity to peruse the record of this registry and learned that there are other five land disputes involving different parties with a similar question from the **District Land and Housing Tribunal for Lushoto at Lushoto** (the Tribunal), in **Land Application No. 1 of 2017; 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.**

Appeals from all these Application, save for **Land Application No. 18 of 2018** (the Application), which is the source of this appeal, were determined to the finality in this registry, in Land Cases Appeal No. 19, 20, 21, 22, 23. It is fortunate that all decisions decided that the amendment brought by section 25 of the Amending Act in section 6 of the Act, by joining the Attorney General as a necessary party in civil proceedings brought under section 3 of the Act, does not affect section 22 of the Act and all suits filed before the alterations in section 6 of the Act.

That being the case, and my perusal in in the cited decisions of this court, particularly in **Theodory Joseph Kamote & Another v. Serikali ya Kijiji Cha Irente**, Land Case Appeal No. 21 of 2021, and **Hashim Salehe Kihahiyo v. Serikali ya Kijiji cha Mng'aro**, Land Case Appeal No. 2021, I believe the present issue in this appeal was well answered. As there are precedents on the subject, this court cannot be detained in interpreting the same provisions from the same statutes or depart from its own previous decisions, unless there are good reasons to do so. In my considered opinion, in the present appeal there are no good reasons to persuade this court to alter the previous precedents.

In the final analysis, I have decided to prefer certainty and predictability of decisions emanating from this court. I have

therefore decided to allow the appeal without costs as the learned minds supported the appeal. As this court is mandated to ensure proper application of the laws, I have decided to quash the decision of the Tribunal in the Application in favour of section 22 of the Act. I further order the Application to proceed in the Tribunal from where it has ended according to the law regulating the Tribunal as the Tribunal has mandate to determine the dispute.

A handwritten signature in blue ink, appearing to read 'F. H. Mtulya', is written over the seal.

F. H. Mtulya

Judge

28.07.2021

This judgment was delivered in Chambers under the seal of this court in the presence of learned counsel, Mr. Henry Njowoka for the Appellant and Mr. Rashid Mohamedi, learned State Attorney and Shafii Rugine, learned Solicitor for the Respondent.

A handwritten signature in blue ink, appearing to read 'F. H. Mtulya', is written over the seal.

F. H. Mtulya

Judge

28.07.2021