

IN THE HIGH COURT OF TANZANIA

AT BUKOBA

MISC LAND APPLICATION NO 65 OF 2020

JAFARI HAMADI.....APPLICANT

VERSUS

YASSAU HABIBU.....RESPONDENT

**(Application for leave to appeal to the Court of
Appeal from the decision of this court in
Land Case Appeal No. 33 of 2018)**

RULING

19 & 19 July, 2021

MGETTA, J.

This ruling is in respect of the chamber summons supported by an affirmed affidavit of Jafari Hamadi, the applicant made under **section 47 (2) of the Land Disputes Court Act, 2002** (Cap 216) in which the applicant is seeking for leave in order to appeal to the court of Appeal against the decision of this court delivered on 18/9/2020 (Bahati, J) dismissing his appeal in Land Case Appeal No. 33 of 2018.

At the hearing, the applicant appeared in person to prosecute the application; and, the respondent Yassau Habibu also fended for himself. Both requested to adopt the affidavit and counter affidavit respectively.

In his affidavit, the applicant averred that immediately after the court had pronounced the judgment in his disfavor, he filed a notice of appeal on 16/10/2020 to show that he was not contended with the

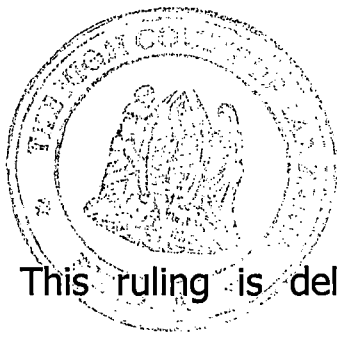
decision of this court. As the law requires, he lodged this application for leave to go to Court to Appeal to explain that the High Court failed to note the existence of previous judgment *in rem* in respect of the land in dispute; and, that the High Court blessed the respondent's forged sale agreement and ignored his valid sale agreement.

In reply, the respondent asked this court to refuse granting leave to the applicant because he has advanced no reasons as to why he intends to appeal.

In reading the records, I found that the applicant has reason to go to Court of Appeal. It is his constitutional right to appeal to the highest court of this land. Likewise, he has complained of forged documents tendered at the district tribunal, but he complained the High Court blessed it. He wanted all illegalities vividly seen on the face of the record be cleared by the Court of Appeal.

In view of the foregoing, I find it justiciable to grant leave to the applicant to appeal to the Court Appeal against the decision passed by this court. Leave is accordingly granted. Costs in the course.

It is so ordered.



A handwritten signature in black ink, appearing to be "J.S. Mgetta".

J.S. MGETTA
JUDGE
19/7/2021

COURT: This ruling is delivered today this 19th July, 2021 in the presence of both parties in persons.

A handwritten signature in black ink, appearing to be "J.S. Mgetta".

J. S. MGETTA
JUDGE
19/7/2021

