

IN THE HIGH COURT OF TANZANIA

IN THE DISTRICT REGISTRY

AT MWANZA

MISC CIVIL APPLICATION NO. 79 OF 2021

(Arising from decision of the High Court Mwanza in Misc. Civil Application No. 142 of 29020)

ROBERT MAZIBA SENGEREMA APPLICANT

VERSUS

ERASTO MAZIBA RESPONDENT

RULING

11/8/2021 & 27/8/2021

W. R. MASHAURI, J;

According to the chamber summons, this is an application to set aside the dismissal order in Misc. Land application No. 142 of 2021 dated 24th June issued by Mashauri, J.

The applicant is seeking for an order of this court to set aside the said dismissal order and grant the parties to hear the application on merits.

It is in record that, before hearing of the application had commenced, there was a notice of preliminary objection to the effect that:

1. The application is bad in law and highly misconceived for being made under section 5(c) of the Appellate Jurisdiction Act Cap. 141 R.E. 2019, in the alternative, the applicants have intended appeal to the Court of Appeal requires no certification of print of law being an appeal not originating from Mwanza urban Primary Court. The application was heard exparte by filing written submissions.

In my ruling, dated 24/06/2021 I sustained the two raised points of preliminary objection and dismissed the intended leave to appeal sought by the applicant. Hence this application to set aside the dismissal order.

When this application was called in court for hearing on 11/08/2021 Mr. Mwanaupanga learned counsel appeared for the applicant and the respondent Erasto Maziba appeared in person as his advocate was indisposed.

Mr. Mwanaupanga counsel for the applicant informed the court that, he was told by counsel for the respondent that the respondent was conceding to the application by the applicant to set aside the dismissal order, the admission of which was also admitted by the respondent Erasto Maziba who was present in court.

On that regard, following to the parties unanimous concession to the application, the application to set aside the dismissal order is granted.

No order as to costs is made.



A handwritten signature in blue ink, appearing to read "W. R. Mashauri", is written over the printed name.

W. R. MASHAURI

JUDGE

27/8/2021

Date: 27/8/2021

Coram: Hon. w. R. Mashauri, J

Applicant:

Respondent:


B/c: Jackline

Mr. Mwanaupanga for applicant.

Mr. Erasto Maziba for respondent.

Court: Ruling delivered in court in presence of Mr. Mwanaupanga advocate for the applicant and the respondent Erasto Maziba this 27/8/2021. Right of appeal explained.




W. R. MASHAURI
JUDGE
27/8/2021