IN THE HIGH COURT OF TANZANIA

IN THE DISTRICT REGISTRY

AT MWANZA

LAND REVISION No. 09 OF 2020

(Arising from Misc. Application No. 01C of 2019 from Execution Cause No. 01 of 2013, Original Land Appeal No. 01 of 2013 in the District Land and Housing Tribunal at Mwanza and Land Case No. 17 of 2012 at Mwamanyili Ward Tribunal)

KEPHULENI LUBIMBI..... APPLICANT

VERSUS

BUHINU NG'WAJE..... 1ST RESPONDENT

ELIAS CHARLES .....2ND RESPONDENT

RULING

04th & 16th August 2021

TIGANGA, J

In these revision proceedings, this court has been moved under section 43(1)(b) of the Land Disputes Courts Act [Cap 216 R.E 2019], sections 79(1)(a) and (b) and 95 of the Civil Procedure Code [Cap 33 R.E 2019] together with item 21 Part III to the schedule of the Law of Limitation Act,

[Cap 89 R.E 2019] and any other enabling provision of the law. The court has been pleased to call and revise the proceedings and decision of the District Land and Housing Tribunal for Mwanza in Misc. Application No.01C of 2019 for objection proceedings dated 07/08/2020 for it being illegal on the following grounds;

(a) The Honourable Tribunal did not decide on the issue of limitation raised during the hearing that since the application for objection proceedings was filed six months later, since the property was handed over to the applicant, the application was hopelessly time barred. (sic)

(b) The Honourable Tribunal wrongly treated the handing over of the disputed land to me as an attachment in satisfaction of the decree. (sic)

(c) Since the landed property was subject to litigation and evidence led in respect of the case and the applicant declared the lawful owner, the Honourable Tribunal had no jurisdiction to investigate into the matter as that was tantamount to overruling its own

decision that granted the ownership to the applicant on the weight of evidence.

(d) The Honourable Tribunal had no jurisdiction to determine the application for objection proceedings on a landed property which was subject of litigation.

The application was by chamber summons which was supported by the affidavit sworn by Mr. Elias Hezron, an Advocate who represented the applicant and who deposed that, upon passing through the decision of Misc. Application No.01C of 2019, he noted the following errors;

(i) The Hon. Tribunal did not decide on the issue of limitation raised during the hearing that since the application for objection proceedings was filed six months later since the property was handed over to the applicant, the application was hopelessly time barred.

(ii) The Honourable Tribunal wrongly treated the handing over of the disputed land to the applicant as an attachment in satisfaction of the decree.

(iii) Since the landed property was subject to litigation and evidence led in respect of the case and the applicant declared the lawful owner, the Honourable Tribunal had no jurisdiction to investigate into the matter as that was tantamount to overruling its own decision that granted the ownership to the applicant on the weight of evidence.

(iv) The Honourable Tribunal had no jurisdiction to determine the application for objection proceedings on a landed property which was subject of litigation.

It was further supported by the affidavit of the applicant in which the background of the dispute at hand was pointed out that, the 2nd respondent and the applicant litigated over the land in Land Dispute No. 17/2008 at Mwamanyili Ward Tribunal and later to the District Land and Housing Tribunal at Mwanza in Appeal No. 01/2013 in which the applicant emerged a victor via a judgment dated 09/06/2017

That was followed by execution of Land Appeal No. 01 of 2013 in which on 08/01/2019 the executing tribunal ordered the said land to be handed over

to the applicant and it was so handed over on 21/02/2019 by the Court Broker appointed by the tribunal to do so.

Following that handing over, the 1st respondent filed in the District Land and Housing Tribunal an Application No. 01C of 2019 for objection proceedings asking the court to investigate the ownership of the land in dispute and find that the same belongs to the applicant objector and consequently find that it was not liable for attachment. Having so found, to make an order releasing the suit property as it belongs to the objector. That application was filed almost six months after the land in dispute was handed over to the applicant in execution of the decree in Land Appeal No. 01 of 2013. As it has been pointed out, although the said application was filed about six months after the land had been handed over to the applicant, the District Land and Housing Tribunal, through its decision dated 07/08/2020, declared the land in dispute not to be subject of attachment as prayed. That order aggrieved the applicant, through the service of Mr. Elias R. Hezron, Advocate, she filed this application.

The respondent objected the application at hand, by filling the two counter affidavits one countering the affidavit sworn and by the applicant while the other being against the affidavit sworn by the learned counsel, Mr. Hezrone. Together with these counter affidavits, the respondent through the service of Mr. Paul Kipeja, Advocate raised one point of preliminary objection, that this Honourable Court has no jurisdiction to entertain the present application. He asked the court to be pleased to dismiss the application and to condemn the applicant to pay costs.

As a matter of practice, the preliminary objection was disposed first, and by the ruling of this court dated, 28th May, 2021 the objection was overruled. Following that ruling, the application was to be heard on merits. Hearing of the application was by way of written submissions. In the submission in chief filed by the counsel for the applicant, it was submitted that trial tribunal ought to have decided on the issue of limitation raised during the hearing of application before it, as the question of limitation goes to the root of the matter and touched the jurisdiction of the court. On that aspect he referred this court to the case of **James Olimo t/a**

Victoria Secondary School vs Makunja Madebe Ting'ana, Civil Appeal No. 32 of 2018 (unreported).

According to regulation 23(4)of the Land Dispute Courts Act (The District Land and Housing Tribunal), Regulations GN.No.174 of 2003 (herein after GN.No. 173) the time available to bring objection is 14 days. The execution was filed in 2018 and parties were served but no objection was raised. On 08/01/2019 an order for execution was issued and on 21/02/2019 the land in dispute was handed over to the applicant. The objection proceedings which resulted in the impugned decision was filed on 26/08/2019 that was six months from the date the applicant was handed over the said plot and the matter closed, thus making the matter to be hopelessly time barred.

According to him, the execution proceedings before the District Land and Housing Tribunal are governed by GN.No. 174 of 2003, therefore the Civil Procedure Code is not applicable, as it can only be applicable in the proceedings before the District Land and Housing Tribunal only where there is inadequacy in the GN.No. 174 of 2003 as provided by section 51(2) of the Land Disputes Courts Act [Cap. 216 R.E 2019]. He submitted further

alternatively that even if the CPC would have been applicable, still the matter was time bared, as order XXI Rule 57 of the CPC which was relied upon by the 1st respondent does not stipulate the time limitation but the proviso under the same rule reads that, "**no such investigation shall be made** where the Court consider that the claim or objection **was designedly or unnecessarily delayed"**.

Therefore he submitted that the law does not leave it open for a party to bring the objection at any time he wants, that other wise would defeat the interest of public that litigation must come to an end. In his opinion the objection proceedings must be brought to court while the execution is in progress and not after closure of the same. As once the execution is carried out to the conclusion and the matter become closed, the trial Court has no jurisdiction to re open the file on the pretext of determining the objection. According to Mr. Hezron this would surely defeat the well settled principle that litigation must come to an end.

The counsel went further that, since order XXI Rule 57 of the CPC does not specify time and an objection proceeding being an application, then Part III

item 21 of the First Schedule to the Law of limitation Act, [Cap 89 R.E 2019] becomes applicable. To cement on that point, he referred to the case of **Blue Star Service Station vs Jackson Musseti t/a Musseti Enterprises** [1999] T.L.R 81 in which it was held *inter alia* that,

> *"It is provided under Part III of the first schedule to the Law of Limitation Act 1971 read together with the provision of section 3 of the Act, to the effect that an application under any written law for which no specific period of limitation is provided under the Act or any other written law is six days"*

Basing on the above authority, he said the respondent was supposed to file the objection proceedings within six days. Therefore filing the same in six months was well out of time and deserved to be dismissed under section 3 of the Law of Limitation Act (supra).

Regarding the rest of the grounds, he informed the court that he shall argue ground b), c), and d), together, in his argument; he reminded the court that the applicant was declared the lawful owner of the land in dispute in Appeal No.01 of 2013 vide the judgment dated 09/06/2017. He also reminded the court that the declaration of the applicant to be the

owner is a decision in *rem* not in *persona* as it binds the whole world against the lawful owner. He also submitted that once the court has decided and issued a decree, it is not open for that court to re open the case and nullify the decision. He reminded the court that the remedy available is either for party aggrieved to file review, revision and appeal or setting aside exparte as held in the case of **Laemthongrice Company Ltd vs Principal Secretary Ministry of Finance** [2002] T.L.R 389. It was submitted further that, the court of appeal went further that;

> *"if the decision were to be altered at the malar's pleasure there could be no certainty of judgment, an essential attribute of any credible system of justice. Trials would be a coerce and decision would be meaningless"*

He submitted that objection is not among the remedies available to challenge the decree, as the purpose of objection proceedings is not to nullify the decree. The decree is required to remain intact even after the determination of the objection proceedings.

He submitted further that, the essence of objection proceedings under Order XXI Rule 57 of the CPC (supra) is to object the attachment of a

property for satisfaction of decree. Rule 63 of Order XXI of the CPC gives the purpose of attachment. The attached property has to be sold and the proceeds of such sale or a sufficient portion thereof to be paid to the party entitled under the decree to receive the same. He in essence argued that objection under Order XXI Rule 57 of the CPC is intended to investigate the property attached to satisfy the decree in monetary form.

He furthermore submitted that, the objection under that provision was not intended in any way to nullify and set aside the decree, as even if the objection succeed the decree remains intact therefore the decree holder can still find another property of the judgment debtor and proceed to attach the same, as the decree holder is entitled to enjoy the fruit of the decree unless otherwise the same is set aside by a court competent to do so.

His further contention is that, although the land in question was declared by the same trial tribunal to be the property of the applicant, but the consequences of the objection rendered the decree passed by the same

court meaningless and the proceedings in Appeal No.01 of 2013 were also meaningless as well. In his humble opinion is not the intention of the law.

Our research has come to note that a person who was not a party to a suit that affected his interest has remedy to file revision to the higher court starting that he was not heard. See the case of **Mohamed Said Seif vs Abdul Aziz Hageb & Another** (CA) Civil Application No. of 2010 (unreported).

In the conclusion he submitted that, it is his humble opinion that the DLHT had no jurisdiction in law to entertain the objection filed before it because as far as the suit property was concerned, the court was *functus officio*.

The respondent opposed the application and in his submission adopted the counter affidavits sworn in opposition of the application. He submitted that, the proceedings before the Mwanza District Land and Housing Tribunal in Appeal No.01 of 2013 were a nullity. His argument is based on the fact that the dispute arose in the land located in Mwamanyili ward of Busega District in Simiyu Region. He submitted that Simiyu was founded on the 2nd March 2012 through Government No. 72 of 2nd March 2012. One of the District

comprising of the newly established region was Busega District in which Mwamanyili ward is located. On the date of the establishment of Simiyu Region the whole region had only one District Land and Housing Tribunal of Maswa which was established by GN. No. 25 of 2009 which had jurisdiction to serve the whole Simiyu Region including Busega District, up to 29th April 2016 through GN.No.47 of 2016 when the District Land and Housing Tribunal for Bariadi and Meatu Districts respectively in Simiyu Region, Meatu DLHT being also designated to deal with disputes from Busega District. According to him, the establishment of these tribunals was in accordance to section 22(1)(2) of the Land Disputes Courts Act, [Cap 216 R.E 2019].

Now that Busega District was in Simiyu Region, Land Appeal No. 01 of 2013 which resulted into execution No. 1B and Misc. Application No. 1C of 2019 which the applicant is seeking to revise was preferred in a wrong forum as Mwanza District Land and Housing Tribunal had no territorial jurisdiction to deal with the matter which originated in Simiyu Region rather the Maswa District Land and Housing Tribunal.

Regarding the issue of time limitation, he submitted that although it was raised as preliminary objection, the same was dismissed for want of prosecution following several occasions of non appearance to prosecute the preliminary objection.

Regarding grounds b), c), and d), he submitted that the first respondent rightly instituted objection proceedings as since he was not part to the proceedings the execution of the decree was an attachment in relation to his interest on the disputed land, as until such time he believed himself to be the lawful owner of the disputed land. He relied on the Blacks Law Dictionary 8th Edition which defines attachment to mean "the seizing of the person's property to secure a judgment or to be sold in the satisfaction of a judgment."

He submitted that the investigation of the Court on the right of an objector over the attached property is not tantamount to revising its own decision as according to order XXI rule 57(1) of the CPC (supra), during the investigation, the objector is considered to be part of the suit therefore the first respondent was considered to be a party to Land Appeal No. 01 of

2013. In the end he asked this court to dismiss the application with cost to the applicant but in the favour of the respondent.

In rejoinder submission, in respect of the issue of jurisdiction of the Mwanza District Land and Housing Tribunal over the disputes arising in Busega District which is in Simiyu region, he submitted that the point was misconceived on the following reasons; first, what is before this court is revision against the decision of the District Land and Housing Tribunal for Mwanza in Misc. Application No. 01C of 2019, an objection proceedings thereat and not Land Appeal No. 01 of 2013. In his view, if parties were aggrieved with the decision of the District Land and Housing Tribunal in that appeal, then they could challenge the decision by way of appeal or revision. According to him, none of the remedies were taken. Therefore raising a point of law in respect of the proceedings not before this court for decision is un called for.

Secondly, that the objection raised needs the production of evidence before ascertaining it, as even the respondent did not say that the administrative establishment of Simiyu Region went hand in hand with the

amendment of the GN, which was established in 2009, to have jurisdiction on matters arising from Busega District. He said the jurisdiction of the DLHT for Mwanza over Busega District has a backup of the law, as the said Busega was part of Magu District which was in Mwanza Region, while Maswa was before establishment of Simiyu, part of Shinyanga Region, the Maswa DLHT could not entertain matters arising from another region. As this is not a pure point of law it needs to be ascertained.

Thirdly, also that the powers of the President under the Constitution to establish the Region and Districts within Tanzania, does not go hand in hand or automatically establishment of the DLHT, on the contrary the Minister has powers to establish the DLHT which exercise jurisdiction within the area of its establishment as provided by section 22(1)(2) of [Cap 216 R.E 2019] therefore without being designated by the Minister in 2012 to have jurisdiction over matters arising from Busega District, the Maswa DLHT could not entertain the dispute originatiNG from Busega prior being designated by the Minister responsible for Lands.

Lastly that the matter was for the first time instituted in Mwamanyili Ward Tribunal in 2008 even before the establishment of Maswa DLHT in 2009, the establishment of Maswa DLHT could not act retrospectively and confer to itself the jurisdiction over the matter filed before its establishment, unless the law clearly states. In that end the appeal was properly filed in the Mwanza District Land and Housing Tribunal. The point of law is thus devoid of merit.

Regarding the reply that, the issue of limitation of time was dismissed for want of prosecution, he submitted that, the point was raised and argued as reflected at page 5, paragraph 2 of the ruling. He submitted that the question of jurisdiction can be raised at any time, and the court can raise it at any stage of the proceedings therefore he maintained that the objection proceedings was time barred.

Regarding the ground b), c), and d), he adopted what was submitted in chief and that the definition of attachment in Blacks Law Dictionary 8th Edition supports the applicant's case. He in the end pray for the application

to be granted and the proceedings in Misc. Application No. 01C of 2019 be revised and quashed.

That being a summary of the record and submissions made by counsel for parties, I would like to start with the issue raised by Mr. Paul Kipeja in the reply submission that the proceedings before the District Land and Housing Tribunal in Appeal No.01 of 2013 were a nullity on the ground that the dispute subject of that appeal arose from Mwamanyili Ward of Busega District in Simiyu Region. And that as it was after Simiyu Region was founded on the 2nd March 2012 through Government No. 72 of 2nd March 2012, the new region being comprised Busega District in which Mwamanyili Ward is located, and by then there was only District Land and Housing Tribunal in Simiyu which was Maswa District Land and Housing Tribunal, therefore being part of Simiyu Region, the matter originating from Busega District were supposed to be filed in Maswa DLHT which was established by GN. No. 25 of 2009 not Mwanza.

The counsel for respondent replied to this point in three folds the first, what is before this court is revision against the decision of the District Land

and Housing Tribubal for Mwanza in Misc. Application No. 01C of 2019, which are objection proceedings thereat and not Land Appeal No. 01 of 2013. In his view, if parties were aggrieved with the decision of the District Land and Housing Tribunal in that appeal, then they could challenge the decision by way of appeal or revision.

On that point I entirely agree with the counsel for the applicant that the matter subject of revision in this application is Misc. Application No. 01C of 2019 not Land Appeal No. 01 of 2013. It should be noted further that the 1st respondent who raises this point was not a party to Land Appeal No 01 of 2013, therefore has no locus of challenging any order, decision or proceedings in that appeal, he only has the locus to challenge the orders which was issued in execution proceedings not in the main appeal. Therefore questioning the legality of the proceedings of Appeal No. 01 of 2013 at this stage is a misconception and misplacement, it has no room before this court for want of locus. Had the 2nd respondent who had locus in that appeal, been aggrieved by the decision and had he wanted to challenge the proceedings he would have done so in those proceedings by

raising a preliminary objection, or by way of appeal or revision. Now that he did not do so, he can not challenge it now at this stage.

Even if for the sake of arguments, we take the respondents to have locus to challenge the said appeal at this stage. It should be noted that the District Land and Housing Tribunal are established and conferred with territorial jurisdiction by the Minister for Lands under section 22 of the Land Disputed Courts Act (supra) which provides as follows:

> *22-(1). The Minister shall, subject to section 167 of the Land Act and section 62 of the Village Land Act, establish in each district, region or zone, as the case may be, a court to be known as the District Land and Housing Tribunal.*
>
> *(2) The court established under subsection (1) shall exercise jurisdiction within the district, region or zone in which it is established.*

It is evident from the provision cited that the DLHT are mandated to exercise jurisdiction within the area for which it is established. It is evident that Maswa DLHT was established in the year 2009 while Simiyu Region

was established in the year 2012, from the timing of their establishment it goes without saying that Maswa DLHT could not have been established to have territorial jurisdiction over Simiyu Region which when it was established it was not in existence. According to the respondent own submission, it was through GN.No.47 of 2016 when the District land and Housing Tribunal for Bariadi and Meatu Districts respectively in Simiyu Region, Meatu DLHT being also designated to deal with disputes from Busega District. For that reasoning, the point raised lacks merits in its entirety, and accordingly fails.

Now back to the merit of the application, I will start with the ground a) of the application as presented in the chamber summons which raises a complaint that, the Hon. Tribunal did not decide on the issue of limitation raised during the hearing that since the application for objection proceedings was filed six months later since the property was handed over to the applicant, the application was hopelessly time barred. The applicant was of the view that, according to regulation 23(4) of the Land Disputes Courts Act (The District Land and Housing Tribunal), Regulations GN.No.174 of 2003 the time available to bring objection is 14 days. As the

order for execution was issued on 08/01/2019 and on 21/02/2019 the land in dispute was handed over to the applicant while the objection proceedings which resulted in the impugned decision was filed on 26/08/2019 that was six months from the date the applicant was handed over the said plot and the matter closed, thus making the matter to be hopelessly time barred.

According to him, the execution proceedings before the District Land and Housing Tribunal are governed by GN. No. 174 of 2003, therefore the Civil Procedure Code is not applicable, as it can only be applicable in the proceedings before the District Land and Housing Tribunal only where there is inadequacy in the GN. No. 174 of 2003, as provided by section 51(2) of the Land Disputes Courts Act [Cap. 216 R.E 2019].

He submitted further alternatively that even if the CPC would have been applicable, still the matter was time bared, as order XXI Rule 57 of the CPC which was relied upon by the 1st respondent does not stipulate the time limitation but the proviso under the same rule reads that, "**no such**

investigation shall be made where the Court consider that the claim or objection **was designedly or unnecessarily delayed"**.

Therefore he submitted that the law does not leave it open for a party to bring the objection at any time he wants, that other wise would defeat the interest of public that litigation must come to an end. In his opinion the objection proceedings must be brought to court while the execution is in progress and not after closure of the same. As once the execution is carried out to the conclusion and the matter becomes closed, the trial Court has no jurisdiction to re open the file on the pretext of determining the objection.

The counsel went further that, since Order XXI Rule 57 of the CPC does not specify time and an objection proceeding being an application, then Part III item 21 of the First Schedule to the Law of limitation Act, [Cap 89 R.E 2019] becomes applicable. To cement on that point, he referred to the case of **Blue Star Service Station vs Jackson Musseti t/a Musseti Enterprises** [1999] T.L.R 81 in which it was held *inter alia* that,

"It is provided under Part III of the first schedule to the Law of Limitation Act 1971 read together with the provision of section 3 of the Act, to the effect that an application under any written law for which no specific period of limitation is provided under the Act or any other written law is six days"

Basing on the above authority, he said the respondent was supposed to file the objection proceedings within six days. Therefore filing the same in six months was well out of time and deserved to be dismissed under section 3 of the Law of Limitation Act (supra).

The reply by the counsel for the respondent on that issue was that, the issue of time limitation was raised as preliminary objection, but the same was dismissed for want of prosecution following several occasions of non appearance of the applicant to prosecute the said preliminary objection. Therefore it can not be raised now and be entertained.

In rejoinder the counsel for the applicant did not dispute that the issue of time limitation was raised and dismissed for want of prosecution. However, he submitted that is an important point of law which touches the question of jurisdiction. In his opinion the said issue can be raised at any time, and

if not raised by parties, the court itself can still raise it at any stage of the proceedings. Therefore he maintained that the objection proceeding was time barred and the trial tribunal was not justified to ignore it.

In resolving this issue, I entirely agree with the position of the law that the issue of time limitation is the point of law which any court properly so called must before entertaining any matter before it must satisfy itself first, that it has jurisdiction to hear and determine the matter before it, the second that the matter was filed within the time prescribed by law, that is notwithstanding that fact that the same was raised by the parties or not. See the case of **Richard Julius Rukambula vs Isack Ntwa Mwakajila and TRC,** Civil Appeal No 02 of 1998. That being the case, that means failure of the applicant to appear and prosecute the preliminary objection based on time limitation, the trial tribunal was supposed not to dismiss it without asking itself as to whether the application was within or out of time, it would have been justified to proceed on the merits of the application after satisfying itself that the application was within time. Failure so to satisfy itself entitles the applicant to raise it at this stage and this court to consider and determine it.

Now, the issue is whether the objection proceedings was filed within time, as clearly indicated by the applicant that regulation 23(4) of the Land Disputes Courts Act (The District Land and Housing Tribunal), Regulations GN.No.174 of 2003 which I am fully convinced that it is the specific law providing for the limitation of time for filing objection proceedings, provides that the time available to bring objection is 14 days. Misc. Application No. 01C of 2019 was files six months computed from the date when the land in dispute was handed over to the applicant.

That means, the trial District Land and Housing Tribunal, ought to have rejected the application for objection proceedings unless the applicant had sought and obtained the extension of time. Without having extension of time, the trial tribunal ought to have the application dismissed for being filed out of time.

Next is the issues as raised in grounds b), c) and d) he informed the court that the land which is the subject matter was the subject of litigation between the applicant and the 2nd respondent from the Ward Tribunal and the applicant was declared the lawful owner of the land. Therefore the

execution and consequential handing over was in fulfillment of the decree which declared the applicant the lawful owner of the said land in Appeal No.01 of 2013 vide the judgment dated 09/06/2017.

Having been declared by the court as the lawful owner of the land, that declaration was a decision in *rem* not in *persona* that means she was declared the owner against the whole world. As the decision was not appealed against and reversed by the Court of competent jurisdiction, the decision can not be challenged by the objection proceedings, it can be challenged by way of appeal, revision or some times review. In essence, objection proceedings are legal actions instituted in most cases by a third party or a person who was not a party to the case, to challenge the attachment made in execution of the monetary decree made with the view of selling the attached property to realize the money to satisfy the monetary decree.

The objection is normally made on the ground that, such property is not liable to such attachment as the claimant or objector claims to have title in the attached property or interest therein. The duty of the court is to

investigate, as to whether the claimant had such interest or title in the property, and if it finds so then it makes an order releasing the property and directs the decree holder to search for other property.

From this explanation the following are the facts, one, objection are made by the persons who was not a party to the case, two, that, the same normally relates the attachment made in the execution of monetary decree, three, it only deals with the attached property, it does not affect the decree that is why if the attachment is lifted the decree holder is asked to search for another property for attachment, four, objection proceedings is not viable to cases where the subject matter for execution was the subject matter of the litigation and the declared the decree holder the lawful owner of the property, fifth, objection proceeding is not review, appeal or revision in disguise.

In the case at hand, the land which was handed over to the applicant was the subject matter of litigation, and he was declared the owner of the land as against the whole world, therefore the trial tribunal was not justified to

hold that the land was not subject of execution as holding so is overruling itself while it was already *functus officio*.

That said I find the application to be meritorious, it is therefore revised, the proceedings in Misc. Application No. 01C of 2019 was a nullity on two grounds, first, it was out of time, second it was a misconception trying to claim the land which had already been declared to be the property of the applicant. The proceedings are nullified, ruling quashed and the orders made thereunder are set aside, the application is thus allowed with costs.

It is accordingly ordered.

DATED at **MWANZA** this 16th day of August, 2021.

THE HIGH COURT OF TANZANIA
UHURU NA UMOJA
MWANZA

J.C.TIGANGA

JUDGE

16/08/2021