

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(DAR ES SALAAM DISTRICT REGISTRY)**

AT DAR ES SALAAM

PC MATRIMONIAL APPEAL NO.97 OF 2021

(Arising from Matrimonial Appeal No. 73 of 2020 of Kinondoni District Court before Hon. A.LYAMUYA – PRM, original Madai ya Talaka MIT/27/20/MM/137 of Kawe Primary Court before Hon. J.D.Kobo – PCM)

JANETH RICHARD SHIRINDE.....APPELLANT

VERSUS

ROBERT JIMMY GONDWE..... RESPONDENT

JUDGMENT

11/10/2021 & 26/10/2021


I.C MUGETA, J.

The appellant advanced 4 grounds of appeal. However, at the hearing she dropped three of them and argued one – which is that the first appellate court erred to hold that the appellant is not entitled to the Matrimonial assets which are one house and “mabanda ya kuku” because they are built on a plot registered in the name of the respondent. Her submission on this complaint was short enough. She just said that, “the properties were divided unfairly”. The respondent replied that he has no properties because they had been vandalized by the appellant.

The trial court found that the parties were not married because during their cohabitation the respondent had subsisting Christian Marriage which is a correct finding. However, since they had children and properties, the trial court proceeded to consider issues of maintenance, custody and

division of the assets acquired during their concubinage. As the two first issues are uncontested I shall determine the last one as raised in the retained ground of appeal. The trial Court found that they acquired jointly several properties and ordered the same to be divided at the ratio of 30:70 between the appellant and the respondent respectively. The first appellate Court over turned the decision and made a finding that one house they have is built on land acquired by the respondent before their cohabitation and there is no evidence on the extent of contribution by the appellant to construct it. Consequently, it awarded the appellant one car and saloon equipments. I find no reason to fault the decision of the first appellate court. The appellant did not prove her contribution towards acquisition of their assets. Domestic activities are counted in case of a valid marriage. When there is no marriage a party ought to prove actual contribution in monetary form. I find the appeal without merits and I accordingly dismissed it without orders as to costs.




I.C MUGETA
JUDGE
26/10/2021

COURT: Judgment delivered in chamber in the presence of all parties who appeared in person, unrepresented.

Sgd: I.C. MUGETA

JUDGE

26/10/2021