

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
IN THE DISTRICT REGISTRY OF BUKOBA  
AT BUKOBA**

**MISC. LAND APPLICATION NO. 60 OF 2021**

*(Originating from Land Appeal No. 06/2020 & Application No. 14/2017 at Bukoba)*

**APOLINARY ZACHWA.....APPLICANT**

***VERSUS***

**FROLA KATARAIYA .....RESPONDENT**

**RULING**

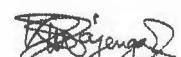
*27<sup>th</sup> October & 27<sup>th</sup> October 2021*

***Kilekamajenga, J.***

The applicant, after being disgruntled with the decision of this Court, as an appellate Court in Land Appeal No. 06 of 2020, filed the instant application seeking leave to Appeal to the Court of Appeal of Tanzania. The application was made under **Section 47 (2) of the Land Disputes Courts Act, Cap. 216 RE 2019** and **Rule 45 (a) of the Tanzania Court of Appeal Rules of 2019**.

The application was accompanied with an affidavit deposed by the applicant. When the parties appeared before this Court to defend the application, both of them appeared in person and had no legal representations. As they were laypersons, their submission were brief and without order.

The applicant's submission was premised on the argument that he bought his land in 2000 from John Patrick. He remained on the land while undisturbed for more than 12 years. His land measures 116 feet x 60 feet. The applicant alleged



that the respondent encroached in his land a distance of six footsteps. He argued further that the trial tribunal visited the locus in quo but did not draw any map to show the boundaries. He further assailed the respondent for not summoning the person who sold the land to her. He finally urged the Court to allow the application.

The respondent, on the other hand, objected the application because the applicant lacks good reason to approach the Court of Appeal. She further argued that her plot is certain and was installed with beacons by the Municipal Council.

When rejoining, the applicant had no substantial argument to be noted.

In determining the instant application, I wish to set-up the legal foundation that leave is always granted if there is good reason to approach the Court of Appeal. Such a reason may be based on a point of law or on a point of public importance that calls for the intervention of the Court of Appeal of Tanzania. See the case of **Rutagatira C. L. v. The Advocates Committee and Clavery Mtindo Ngalapa, Civil Application No. 98 of 2010, CAT at Dar es Salaam (unreported)**. In the case of **Harban Haji Mosi and another v. Omar Hilal Seif and another, Civil Reference No. 19 of 1997 (unreported)**, the Court observed that:

*"leave is grantable where the proposed appeal stands reasonable chances of success or where but not necessarily, the proceeds as a whole reveal such disturbing features as to require the guidance of the of the Court of Appeal. The purpose of the provision is therefore to spare the Court the spectre of unmeriting matters and to enable it to give adequate attention to cases of true public importance".*

In the instant application, I have carefully considered the parties' oral submission and the record of the court and there is no point of law or anything that calls the intervention of the Court of Appeal. The most pertinent issues including the one advanced by the applicant during the oral submission were adequately addressed by this Court at an appellate stage. The application is devoid of merit and I hereby dismiss it with costs. It is so ordered.

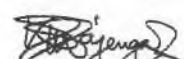
**DATED** at **BUKOBA** this 27<sup>th</sup> day of October, 2021.



**Ntemi N. Kilekamajenga.**

**JUDGE**

**27/10/2021**



**Court:**

Ruling delivered this 27<sup>th</sup> October 2021 in the presence of the parties. Right of appeal explained to the parties.



  
**Ntemi N. Kilekamajenga.**  
**JUDGE**  
**27/10/2021**

