

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(IN THE DISTRICT REGISTRY OF KIGOMA)**

**AT KIGOMA
(LAND DIVISION)**

APPELLATE JURISDICTION

MISCELLANEOUS LAND APPEAL NO. 23 OF 2021

(Arising from Land Appeal No. 23/2021 of the District Land and Housing Tribunal, Kigoma
before Waziri M.H. Chairman)

ZAIDI S/O JUMANNE ZAIDI (Administrator of the
Estate of the late **JUMANNE S/O ZAIDI**) **APPELLANT**

VERSUS

PILI RAJABU ABDALLAH (Administratrix of the estate
Of the late **RAJABU S/O ABDALLAH MBANO**) **RESPONDENT**

R U L I N G

02/12/2021 & 06/12/2021

L.M. MLACHA, J.

When the appeal was called for hearing, counsel for the respondent, Mr. Kabuguzi raised an objection that the appeal is improperly before the court for failure to attach a copy of the decree in the Petition of Appeal. He cited order XXXIX rule 1(I) of the Civil Procedure Code Act, Cap. 33 R.E. 2019 as his authority. He also asked the court to follow its decision made in **Yahaya Ngilo v. Ally Selemeni**, DC Civil Appeal No. 19 of 2018 (High Court Tabora). The respondent agreed that he did not attach a copy of the decree of the District Land and Housing Tribunal extracted

from its decision made in Application No. 63/2012. He however argued that he attached a copy of the decision and other documents which he thinks that they are enough. He added that he is not a lawyer.

My reading of order XXXIX rule 1(I) of the CPC did not give me any room to accommodate the appeal. Rule 1(I) state in part that. Every appeal be preferred in the form of a memorandum signed by the appellant or his advocate and presented to the High Court and the memorandum **shall** be accompanied by a copy of the **decree** appealed from and unless the court dispenses therewith, a copy of the judgment. The requirement to attach a copy of the decree is mandatory. It is not discretionary. Whereas the court can do way with the requirement to attach a copy of the judgment, it cannot do so in respect of a decree. That was also the position of this court in Yahaya Ngilo (supra).

It follows that the appeal before me is improperly before the court for failure to attach a copy of the decree of the District Land and Housing Tribunal. It is struck out. I make no order for costs.




L.M. Mlacha

JUDGE

06/12/2021

Court: Ruling delivered in chamber in the presence of the appellant and in the absence of the respondent, represented by Miss Joyce Godfrey, Advocate.



A handwritten signature in blue ink, appearing to be "L.M. Mlacha", written over a horizontal line.

L.M. Mlacha

JUDGE

06/12/2021