

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

LAND REVISION NO. 01 OF 2019

(Arising from the Ruling of the District Land and Housing Tribunal of Singida in Misc.
Land Application No. 104 of 2017 as per Hon. Sululu)

MARIAM RAMADHANI..... APPLICANT

VERSUS

RAJABU ALLY HONGOA..... RESPONDENT

RULING

8/11/2021 & 6/12/2021

MASAJU, J

The Applicant, Mariam Ramadhan, vide Chamber Summons Application made under Section 41 of Land Disputes Courts Act [Cap 216 RE 2002] and Section 79 (1) (a) (c) of the Civil Procedure Code [Cap 33 RE 2002] seeks Revision of the Order of the District Land and Housing Tribunal for Singida at Singida in Miscellaneous Land Application No. 104 of 2017. The Application is supported by an Affidavit affirmed by the Applicant herself.

The Respondent, Rajabu Ally Hongoa, contests the Application. He filed in the Court his Counter Affidavit to that effect.

The parties argued their Application by way of written submissions as per the Court's order dated the 27th day of April, 2021.

The Applicant submitted that she was aggrieved by the decision of the District Land and Housing Tribunal for Singida in Miscellaneous Land Application No. 40 of 2021 thus she appealed in the court vide Land Appeal No. 72 of 2015 where the Court quashed the decision of the trial Tribunal.

That, she was given her letter of execution the 31st day of October, 2017 and execution was done by the village Land Council. That, to the Applicant's surprise, on the 1st day of March, 2019 under Miscellaneous Land Application No. 104 of 2017 the trial Tribunal quashed the decision of the High Court and the order for execution given by the same trial Tribunal and ordered the same parcel of Land to be given to the Village Council and that, the Applicant was ordered to hand over the suit parcel of Land to the Village Council as soon as she harvests the crops. That, the Applicant decided to file the Application for Revision against the said order by the trial Tribunal.

On his part, the Respondent contested the Application by arguing that he does not understand why he has been made a party to the Application in the Court while the Applicant's dispute, is against the Village Council.

That is what was shared by the parties in their written submissions in support of, and against the Application in the Court.

The matter originates from the Land Application No. 40 of 2012 in the District Land and Housing Tribunal for Singida where the Respondent successfully sued the Applicant. The Applicant successfully appealed in the Court vide Land case Appeal No. 72 of 2015 (Mohamed, J). The Applicant

then successfully filed for execution vide Miscellaneous Land Application No. 104 of 2017 in the District Land and Housing Tribunal for Singida. The Village Executive Officer Unyambwa Ward complied to the trial order and sent back the report on the same day. The report was received by the trial tribunal on the 13th day of November, 2021. Thus, the execution was successful.

The record of proceedings in the said Miscellaneous Land Application No. 104 of 2017 shows a Ruling was delivered on the 1st day of March, 2019 to the effect that the Applicant had protruded to the Village land demarcated as a pitch and cultivated on the same. That, the land was the Applicant's land before being acquired by the Village Council. The trial Tribunal ordered the Applicant to hand over the said suit land to the village leaders soon upon harvesting her crops.

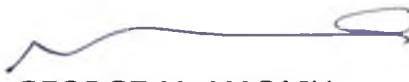
The trial Tribunal's record of proceedings does not reveal the proceedings, if any, or Application which led to composition of the said Ruling delivered on the 1st day of March, 2019. According to the said Ruling the Village Council had complained of trespass done by the Applicant to their alleged Village land used as a football playing ground but the Village Council was not a party to the Miscellaneous Land Application No. 104 of 2017 for them to file Application, if any, in the said suit. Thus, it was unlawfully for the trial Tribunal to make a decision in favour of a stranger/third party who had no "*locus standi*" in the Miscellaneous Land Application No. 104 of 2017. If the Village Council had any complain against the Applicant she ought to have filed a separate suit against the Applicant or have filed objection proceedings against the execution and not otherwise. In the instant case,

the record of proceedings is silent as to what exactly did the Village council complain of or file against the Applicant for the Ruling to be reached.

That said, the Application is hereby granted. The Court invokes its revisionary powers under Section 43(1) (b) of the Land Disputes Courts Act [Cap 216] to nullify, quash and set aside the illegal Ruling and Orders by the District Land and Housing Tribunal for Singida, in Misc. Land Application No. 104 of 2017 delivered on the 1st day of March, 2019 against the Applicant.

The parties shall bear their own costs.




GEORGE M. MASAJU

JUDGE

6/12/2021