

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

**CIVIL APPEAL No. 33 OF 2021**

*(Arising from the decision of the District Court of Chato in Civil case No. 01 of 2017)*

**PETER KWADHI ALOYO ..... APPELLANT**

**VERSUS**

**DAUDI EMMANUEL MANYAMA..... 1<sup>st</sup> RESPONDENT**

**SILVA INVESTMENT..... 2<sup>ND</sup> RESPONDENT**

**SILVANUS MUGANYA ..... 3<sup>RD</sup> RESPONDENT**

**JUDGMENT**

4/4/2021 & 20/6/2022

**ROBERT, J:-**

On 17<sup>th</sup> day of March, 2017 the 1<sup>st</sup> Respondent herein filed an action at the District Court of Chato against the Appellant herein as well as the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents herein jointly claiming a total of TZS 23,000,000/= being loan extended to the Appellant herein acting for and on behalf of the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents, general damages at a tune of TZS 50,000,000/= for breach of contract, interest of 21% at a commercial rate from the due date to the date of judgment and interest at a Court rate of 12% from the date of judgment to full satisfaction of the debt.

The trial Court entered judgment in favour of the first Respondent herein against the Appellant only leaving out the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents herein. Aggrieved, the Appellant preferred this appeal against the decision of the trial Court on the following grounds:-

1. ***That, the entire proceedings, judgment and others made thereto by the trial magistrate were fatally tainted with irregularities and illegality for want of court jurisdiction.***
2. ***That, the trial court magistrate erred in fact by deciding against the favour of the appellant leaving out the 2<sup>nd</sup> and 3<sup>d</sup> defendants***
3. ***That, the trial magistrate erred in law and in fact deciding in favour of respondents whereas the case was proved to the required standard.***
4. ***That, the trial court magistrate erred in fact for failing to take into account the circumstance of the case thereby failing to award costs of the suit and general damages.***

At the hearing of this appeal, the appellant was represented by Ms. Stella Sangawe, learned counsel whereas the first Respondent appeared in person, unrepresented and the second and third Respondents were both represented by Mr. Bakari Chubwa Muheza, learned counsel. The appeal was argued orally.

Submitting in support of the appeal, Ms. Sangawe opted to argue the first ground of appeal only and dropped the remaining grounds. In her brief and direct submissions, the learned counsel maintained that, the decision of the trial Court is tainted with irregularity and illegality for want

of Court jurisdiction. She amplified that, the District Court had no pecuniary jurisdiction to entertain this case as the matter in dispute involved a claim of TZS 23,000,000/= arising from a contract between parties. She clarified that, section 20(1)(b) of the Magistrates' Courts Act, Cap. 11 (R.E.2002) sets the pecuniary jurisdiction for Primary Courts at TZS 30,000,000/= thus, this dispute falls within the pecuniary jurisdiction of the Primary Court and not the District Court.

To bolster her argument she cited the case of **Tanzania China Friendship Textile Company Ltd vs Our Lady of the Usambara Sisters (2006)** TLR at page 70 where the Court of Appeal of Tanzania held that jurisdiction of the Court is determined by the substantive claims not the general damages. She ended her submissions by praying that the trial court decision be nullified and set aside and the matter be heard a fresh in a court with competent jurisdiction.

In response, Mr. Muheza coincided with the submissions made by Ms. Sangawe. However, he clarified further that, section 18 of the Magistrates Courts' Act, Cap. 11 (R.E.2002) as amended by section 20 of the Written Laws Miscellaneous Amendment Act No. 3 of 2016 increased the pecuniary jurisdiction of the Primary Court to TZS 30,000,000/= in respect of movable properties and TZS 50,000,000/= in respect of immovable

properties. The amendment came into effect on 8<sup>th</sup> July, 2016. Hence, by the time of filing this case at the District Court on 17<sup>th</sup> March, 2017 the District Court had no pecuniary jurisdiction to entertain the matter. He therefore agreed with the prayer made by the counsel for the Appellant.

On his part, the first Respondent who appeared in person without representation concurred with the submissions made by both counsel for the parties. He prayed for the appeal to be allowed and parties in this case to bear their own costs.

From the submissions made by parties in this case, it is not disputed that the substantive claim in this matter is TZS 23,000,000/= and the case was lodged at the District Court on 17<sup>th</sup> March, 2017. Therefore, the only question for determination is whether the trial Court had jurisdiction to entertain this case.

This Court is aware that jurisdiction of Courts is conferred by statute (see **Bahari Oilfield Services FPZ Ltd Vs Peter Wilson**, Civil Appeal No. 157 of 2020, CAT, unreported).


As rightly argued by the parties, the pecuniary jurisdiction of the Magistrates' Courts is conferred by the Magistrates' Courts Act. Section 18 (1) (a) (iii) of the Act as amended by section 20 of the Written Laws (Miscellaneous Amendments) Act, No. 3 of 2016 conferred jurisdiction to

the Primary Courts *for the recovery of any civil debt arising out of contract, if the value of the subject matter of the suit does not exceed thirty million shillings* (TZS 30,000,000/=). Therefore, since the substantive claim in this case was TZS 23,000,000/=, the competent Court to entertain the matter, at the time of lodging the claim, was the Primary Court and not the District Court. That said, this Court finds and holds that, the District Court of Chato had no jurisdiction to entertain Civil Case No. 01 of 2017.

In the circumstances, I hereby quash the proceedings and judgment of the trial Court in Civil Case No. 1 of 2017 and set aside all orders made therefrom. If any of the parties so wish, he or she may recommence the action in the Court of competent jurisdiction subject to the law of limitation. Each party to carry its own costs.

It is so ordered.



  
K.N.ROBERT  
JUDGE  
20/6/2022