

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

**AT BUKOBA**

**LAND APPEAL NO. 59 OF 2021**

*(Arising from the District Land and Housing Tribunal for Muleba at Muleba in Misc. Land Application No. 85 of 2020 and original Civil Case No. 10 of 2019 from Bumbire Ward Tribunal)*

**ISSA WAMBOGA..... APPELLANT**

**VERSUS**

**VENANSIA BISEKO..... RESPONDENT**

**JUDGEMENT**

***Date of Judgment: 25.03.2022***

***Mwenda J,***

Mr. Issa Wamboga (the Appellant) being dissatisfied with the ruling of the District Land and Housing Tribunal for Muleba at Muleba in Misc. land Application No. 85 of 2020, preferred this appeal with a total of four (4) grounds.

When this appeal was scheduled for hearing both parties appeared in person without legal representation.

In his submission in chief the appellant submitted that, he filed the present appeal because he does not know who is Venansia Biseko. He stated that since 2019 he was sued by Venansia Nyandele but to his dismay when he lost the case Venansia Biseko applied for execution. He stated that Venansia Biseko intends to

illegally acquire his properties. He concluded by praying before this court to see if Venansia Biseko was having power of attorney to handle this case on behalf of Venansia Nyandele.

In reply to the submission by the appellant, the respondent submitted that her name is Venansia Biseko and she used the name Venansia Nyandele before the Ward Tribunal as Nyandele is her mother's name who died in 2019. She concluded by submitting that, Venansia Nyandele is also her name.

In a brief rejoinder the appellant stated that what the respondent submitted is not true and with regard to the names Venancia Biseko and Venancia Nyandele these are two different persons.

Having gone through the submission by both parties and after a thoroughly perusal of court record, the issue for determination in this appeal is whether the respondent was a party to the original case before the Ward Tribunal.

This court perused the Ward Tribunal's records and noted the names of the parties in the suit recorded appear follows as and I quote;

***"Shauli la shamba- MSA Levocatus Pamoja na  
Venancia Nyandele shamba la mama yao Nyandele  
wa Nyalusheme (MASSI) dhidi ya Issa Wamboga".***

Also the title of the judgment before the Ward Tribunal reads as follows:

*"Halmashauri ya Wilaya ya Muleba, Baraza la ardhi  
kata Bumbire, Hukumu ya shauli la shamba kati ya Bi  
Venansia Biseko dhidi ya Issa Wamboga."*

On the said judgment it was held as follows and I quote;

*"Bi Venansia Nyandele ameliomba baraza kuwa  
yuko tayari kulikomboa shamba hilo na baraza  
limekubali maombi yake kwa thamani ambayo  
lilikuwa limeuzwa bila fidia yoyote ambayo ni  
shilingi million moja nusu tshs 1,500,000/=  
kuanzia leo tarehe 01/05/2020. Shamba  
limeekombolewa kutoka kwa bwana Issa  
Wamboga"*

Also, before the District Land and Housing tribunal Venansia Biseko filed Misc. Application No. 85 of 2020 for execution process, it is from this execution where the appellant said he don't recognize Venansia Biseko because before the Ward Tribunal he was sued by Venansia Nyandele. This issue was determined by the chairman before the tribunal and he stated that:

*"since the only objection of the judgment debtor  
in this application is about the names and he  
never appealed or apply (sic) for revision against*

***the Ward Tribunal's judgment it is my opinion  
that I should proceed to grant execution".***

It is from the said judgment the appellant appealed to this court.

In the present appeal the appellant is complaining that Venansia Biseko and Venansia Nyalende are two different persons and he wants this court to see if Venansia Biseko had power of attorney to act on behalf of Venansia Nyalende.

Going through the court records especially the Ward Tribunal records, it is shown that the judgment read was between Venansia Biseko and Issa Wamboga and all the documents which was referred to as "*Makabidhiano ya fedha*" dated 13/3/2020 and 11/12/2019 describe Venansia Biseko as the one who was executing the order by the tribunal. Going through the Ward Tribunal records, from the proceedings to the judgment, the name Venansia Nyandele and Venansia Biseko were used interchangeably and the appellant never challenged it. However, during the execution the appellant objected execution on the ground that Venansia Nyandele and Venansia Biseko are two different persons.

That being said this court is of the view that since there is no appeal against the decision of the Ward Tribunal which declared Venansia Biseko the victor, inference is then drawn that Venansia Biseko and Venansia Nyandele is the same person. The backup of this position is drawn from section **122 of Evidence Act [CAP 6 R.E 2019]** which reads as follows;

***"A court may infer the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case".***

From the foregoing observation this court is of the view that this appeal is an afterthought and unmerited and it is hereby dismissed with costs.

It is so ordered.



  
A.Y. Mwenda  
**Judge**  
25.03.2022

This judgment is delivered in chamber under the seal of this court in the absence of the appellant and in the presence of the respondent Ms. Venansia Biseko.



  
A.Y. Mwenda  
**Judge**  
25.03.2022