

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

**LAND APPEAL NO. 01 OF 2022**

(Emanating from the District Land and Housing Tribunal for Mbeya at Mbeya in Land Appeal No.12 of 2016, originating from Mahongole Ward Tribunal in Land Case No. 63 of 2015)

**LEAH MWAMWEZI..... APPELLANT**

**VERSUS**

**JOHN MWANSASU.....RESPONDENT**

**JUDGEMENT**

*Date of last Order: 28.04.2022*

*Date of Judgment: 10.06.2022*

**Ebrahim, J.**

The genesis of this appeal is Land Appeal No. 12 of 2016 at the District Land and Housing Tribunal for Mbeya at Mbeya which was decided ex parte in favour of the respondent. The appellant successfully sued the respondent over a piece of land at the Ward Tribunal of Mahongole vide Land Case No. 63/2015. Aggrieved, the respondent successfully lodged Land Appeal No. 12 of 2016 which its judgement was delivered ex-parte. It is the ex-parte judgement that stemmed the instant appeal.

Following the ex-parte judgement, the appellant filed an application in terms of **Regulation 11(2) of the Land Disputes Courts Regulations of 2003, GN No. 174 of 2003**, i.e., Miscellaneous Application No. 12 of 2018 praying for an order to set aside ex-parte judgement on the reason that she had no knowledge of the pending appeal against her. She said she became aware of the ex-parte judgement at the execution stage.

In hearing the application, the Tribunal dismissed the application on the basis that there is proof on record that the efforts to serve the appellant proved futile which led to the service of summons through publication via Mwananchi Newspapers of 16<sup>th</sup> April, 2016. The Chairman found the same to be sufficient notice in accordance to **Regulation 9(c) of GN. No. 174 of 2003 of the Land Disputes Courts Regulations of 2003**.

Aggrieved, the appellant preferred the instant appeal raising four grounds of appeal faulting the trial Tribunal for failure to grant extension of time to set aside an ex-parte judgement.

Nevertheless, upon going through the ruling of the trial Tribunal that is appealed against, I observed that there is none-existent of the

complained refusal of an order to extend time to set aside ex-parte judgement.

I visited the submissions by the parties to see as to whether they are discussing the faulted order of the trial Tribunal of 25.05.2018 on the refusal to set aside ex-parte judgement. Dismayingly, I found that even their submissions are premised on the error of the Tribunal to refuse to grant an order for extension of time to file an application to set aside ex-parte judgement.

Records reveal that the appellant had already been granted leave to file an application to set aside ex-parte judgement out of time as correctly observed by the Tribunal in its ruling dated 25.05.2018, subject of the instant appeal. More-so, the chamber summons filed at the Tribunal, i.e., Miscellaneous Application No 12/2018 was clearly made under the provisions of **Regulation 11(2) of the Land Disputes Courts Regulations of 2003, GN No. 174 of 2003** which allows a party to make an application to set aside an ex-parte judgement within 30 days.


Clearly, after going through the records and the grounds of appeal, I find that the submissions by the parties and the grounds of appeal do not challenge the order of the Tribunal of 25.05.2018. Thus, I find no reason to fault the Tribunal.

Owing to the above findings, I find the appeal to be unmeritorious and I dismiss it in its entirety with costs.

Ordered accordingly.



**Mbeya**  
**10.06.2022**

  
**R.A. Ebrahim**  
**JUDGE**

**Date:** 10.06.2022.

**Coram:** Hon. A.E. Temu - DR.

**Appellant:** Absent.

**For the Appellant:** Amani Mwakolo, Advocate.

**Respondent:**

**For the Respondent:** } Absent.

**B/C:** P. Nundwe.


**Amani Mwakolo (Adv):** I am holding brief of Daniel Muya for respondent with the direction to proceed. I am representing the appellant in this case. The appellant is coming for judgement today.

**Court:** Judgment delivered in the presence of both parties.A

  
A.E. Temu

Deputy Registrar

10/06/2022

  
HIGH COURT OF TANZANIA  
MBEYA