

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(TEMEKE HIGH COURT SUB-REGISTRY)
(ONE STOP JUDICIAL CENTRE)
AT TEMEKE**

CONSOLIDATED PC. CIVIL APPEAL NO. 14 & 13 OF 2022

ISSA MOHAMED HUDUMA.....APPELLANT

VERSUS

LATIFA IBRAHIMRESPONDENT

JUDGMENT

25/05/2022 & 01/08/2022.

I.C. MUGETA J,

It is common knowledge that effective from 27/8/2021, all district courts in Dar es salaam region ceased to have jurisdiction on matrimonial proceedings. The Magistrates' Courts (Variation of the Designation of the District Court for Matrimonial matters and Probate and Administration Causes) Order, 2021, G.N 641 of 2021, published on the said date vested that jurisdiction into the Temeke District Court One Stop Judicial Centre at Temeke.

The appeal leading to the impugned judgment was filed at the Temeke District at Temeke on the 5th October, 2021. By that date the district court

at One Stop Judicial Centre was already operational. Upon its determination, both parties have filed appeals to this court. While the appellant filed PC. Civil Appeal No. 14 of 2022, the respondent has cross appealed by PC. Civil Appeal No. 13 of 2022. Pursuant to rule 6 of the Civil Procedure (Appeals in Proceedings Originating in Primary Courts) Rules, G.N 312 of 1964, the same were consolidated to be heard as one.

The appellant's fifth ground of appeal is that the first appellate court entertained the appeal without jurisdiction. I shall determine this appeal on this ground only. It is sufficient to dispose of the appeal and the cross appeal.

The respondent who is unrepresented prayed and was granted leave to dispose of the appeal by way of filing written submissions so that she can get legal aid. In their written submissions, the learned counsel, Mainda Sengeda and Agness Manyanga for the appellant has argued that pursuant to the coming into effect of the said G.N, the first appellate court had no jurisdiction over appeals involving matrimonial proceedings. The reply to this argument by the respondent is, sadly, unintelligible.

I agree with the appellant on the complaint about jurisdiction of the first appellate court. The district court at Temeke, indeed, entertained the appeal without jurisdiction. Its jurisdiction was removed by the said G.N. It is settled that proceedings conducted without jurisdiction are a nullity.

On account of voidness of the proceedings at the district court, there is no valid appeal in this court. No appeal can lie from nothing. Consequently, I invoke the revisional powers of this court under section 44(1)(a) of the Magistrates' Courts Act [Cap. 11 R.E 2019] (the MCA) to set aside such proceedings. The judgment emanating therefrom is accordingly quashed.

The appeal at the district court was filed 38 days of the promulgation of the said G.N. The respondent/appellant being unrepresented lay person, she hardly could have known the change in that court's jurisdiction brought by the ongoing judiciary reform and modernization towards the citizen centric judicial services delivery. In that regard, the blame for the resultant error ought to be shouldered by the district court which failed to guide her correctly. On this consideration, I, *suo motu*, grant her and anyone interested in these proceedings extension of time to file a fresh appeal in the proper court, namely, the district court of Temeke at One stop Judicial

centre within thirty days from the date of this order. I so direct under section 44(1)(b) of the MCA.

In the fine, both appeals are dismissed without orders as to costs. Besides this being a matrimonial cause, no party can be held culpable for its results.



Mugeta
I.C. MUGETA

JUDGE

01/08/2022

Court: - Judgment delivered in chambers in the presence of both parties.

Sgd: I.C. MUGETA

JUDGE

01/08/2022