

**THE UNITED REPUBLIC OF TANZANIA**

**JUDICIARY**

**IN THE HIGH COURT OF TANZANIA**

**IRINGA DISTRICT REGISTRY**

**AT IRINGA**

**MISCELLANEOUS LAND APPLICATION NO. 23 OF 2020**

**(Originating from Civil Appeal No. 14 of 2018, in the High Court of Tanzania, at Iringa).**

**JAMILA AUGUSTINO ILOMO..... APPLICANT**

**VERSUS**

**1. VICTORIAL ILOMO ..... 1<sup>ST</sup> RESPONDENT**

**2. MARY ILOMO ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

**12 & 12/05/2022.**

**Utamwa, J.**

Mr. Jonas Kajiba, the learned counsel for the appellant prayed to withdraw the application (for the certificate of point of law) since it was necessary to file the notice of appeal [to the Court of Appeal of Tanzania (the CAT) against a decision of this court] before lodging the application at hand. However, the notice was not so filed before.


Mrs. Napendael Mzava, learned counsel for the first respondent did not object to the prayed withdrawal, but prayed for costs since her client had incurred costs. The applicant's counsel insisted his prayers on the ground that, the irregularity came to his attention late.

In my view, the prayer for the withdrawal of the application is the right of the applicant. It is thus, granted and the application is marked withdrawn.


As to costs, the general rule is trite and clear that, costs follow event and are granted at the discretion of the court, unless the court records good reasons for deciding otherwise; see Section 30(1) and (2) of The Civil Procedure Code, Cap. 33 RE 2019 and the decision by the CAT in the case of **Njoro Furniture Mart Ltd v. TANESCO [1995] TLR. 205.**

In the matter at hand, I see no good reason for diverting the general rule of costs. The reasons adduced by the applicant's counsel for waving the costs are insufficient since they are not backed by the law. I thus, order that the applicant shall pay costs to the first respondent. The costs shall firstly be taxed. Regarding the second respondent, I make no order as to costs since she does not attend the court as per the record, and today she is not in court and no notice of absence was sent to this court to show why she could not enter appearance. It is so ordered.

  
JHK. UTAMWA  
JUDGE  
12/05/2022.



Court: Ruling pronounced in the presence of Mr. Jonas Kajiba, advocate for the applicant and Mrs. Mzava, advocate for the first respondent in court, this 12<sup>th</sup> May, 2022.

  
JHK. UTAMWA  
JUDGE  
12/05/2022.

