

**IN THE HIGH COURT OF TANZANIA  
TABORA DISTRICT REGISTRY  
AT TABORA**

**MISC. LAND CASE APPEAL NO. 14 OF 2019  
(Arising from the Judgment and Decree of the District Land and  
Housing Tribunal for Nzega in Land Case Appeal No. 8 of 2019  
and the original decision of Sigili Ward Tribunal in Land Dispute  
No. 03 of 2018)**

**SHALALI VICENT.....APPELLANT**

**VERSUS**

**RICHARD CHARLES.....RESPONDENT**

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**RULING**  
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Date of Last Order: 25/03/2022

Date of Delivery: 8/07/2022

**AMOUR S. KHAMIS, J:**

Following a preliminary objection raised by Richard Charles, the respondent herein, this Court was called upon to determine whether the present appeal is time barred or overtaken by events on a ground that the appellant was appointed administrator of the estate twelve (12) years from date of death of his late grandfather who allegedly owned the disputed land.



The parties' dispute originate from the decision of Sigili Ward Tribunal in Nzega District which declared Shalali Vicent as lawful owner of the disputed land located in Nyamalagwa Village.

On appeal to the District Land and Housing Tribunal for Nzega, the ward tribunal's decision was quashed on account of lack of locus standi by Shalali Vicent and "in the alternative", Richard Charles was declared a lawful owner.

Aggrieved by that decision, Shalali Vicent approached this Court through a Memorandum of Appeal containing five grounds of appeal.

The matter was heard through video conference technology in which Mr. Hassan Kilingo, learned advocate of this Court, appeared for the appellant, Shalali Vicent.

Richard Charles appeared in person and informed this Court that he engaged Mr. Emmanuel F. Sululu, learned advocate based in Singida region.

On that account, the preliminary objection was disposed of by way of written submissions.

Whereas Mr. Emmanuel Sululu timely lodged the arguments in support of the objection, Mr. Hassan Kilingo failed to account for the appellant's non - compliance of the orders of the Court.

I am therefore restrained to rely on the respondent's submissions on record to determine the relevant issues.




Mr. Sululu contended that at the time of filing the dispute, Shalali Vicent was not yet appointed administrator of the estate of his late grandfather, Igembe Mbaga, who died intestate on 6/07/2007.

He alleged that the letters of administration were issued to Shalali Vicent by Mwangoye Primary Court on 23/05/2019 after the dispute was lodged in the ward tribunal.

Further, the respondent's counsel contended that Shalali Vicent applied to be appointed as administrator of the estate after expiration of 12 years from date of death of his grandfather.

He added that no reasons were advanced for the late filing of the petition/application for letters of administration contrary to Rule 31(1) of **THE PROBATE RULES, GN No. 369 of 1963** which requires a petitioner/applicant to submit a statement explaining the delay where such application is made after lapse of three years from the date of death.

In support of the assertion, the learned counsel relied on the decision of this Court at Musoma in **THE MATTER OF THE ESTATE OF THE LATE NOELA SONGO NYEKAJI, PROBATE AND ADMINISTRATION CAUSE NO. 03 OF 2019** (unreported).



The issue is whether the Sigili Ward Tribunal and the District Land and Housing Tribunal for Nzega competently entertained the parties' dispute.

It is trite law that a person must have a sufficient interest to sustain his standing to sue in a Court of law. This is known as locus standi; the right or capacity to bring an action or to appear in Court.

For a party to have locus standi, he must demonstrate that his own interest has been particularly prejudiced.


In ***BOLTON V SALIM KHANOI (1957) EA 360***, it was held that when a person is suing as an administrator before obtaining letters of administration, the suit is a nullity and cannot be validated by the subsequent grant.

Records show that Land Dispute No. 3 of 2018 was lodged in the Sigili Ward Tribunal by Shalali Vicent on 13 August 2018.

Proceedings in the ward tribunal indicates that Shalali Vicent claimed ownership of the disputed land as it formed part of the estate of his late grandfather, Igembe Mbaga.

Records further reveal that letters of administration by Mwangoye Primary Court to Shalali Vicent as regards to the estate of the late Igembe Mbaga were issued to him on 23 May 2019 through Administration Cause No. 2 of 2019.

That means, Land Dispute No. 3 of 2018 was instituted in the Ward Tribunal about nine (9) months before letters of administration were issued by the Primary



Court and therefore, Shalali Vicent had no legal capacity to institute those proceedings.

Associated with this issue are the facts on record indicating that Richard Charles claimed ownership of the disputed land from his late grandfather, Mwanamanungu.

Records show that upon death of Mwanamanungu, Charles Kwiwuka, the father of Charles Richard, was appointed administrator of the estate.

Nonetheless, Charles Richard did not lead evidence to show as to how he came into alleged ownership of the property. Important issues remain unanswered in the available records: Whether Charles Richard was administrator of the estate of Mwanamanungu, administrator of the Estate of Charles Kwiwuka or an heir to one of the two estates?

A similar issue was determined by this Court in **NURU SALUM V PILI SALUM, HIGH COURT PC CIVIL CASE NO. 145. OF 1994** (unreported) wherein Kyando, J (as he then was) held that:

*"Mr. Kalolo submitted that the respondent being the child of the original owner of the land in dispute, did not have any legal right to sue because she did not have letters of administration in respect of her late father's estate or any other evidence to*



*show that she had inherited her late father's property and was the sole heir in respect of it.*

*Mr. Kalolo submitted that the respondent had no locus standi in the matter therefore, he said even under customary law the respondent did not show that she was the lawful heir of the property of her father. I find this point well founded and the arguments of it formidable. In order to be recognized by the courts as the lawful heir of the late father's estate or that she administers it (the estate), the respondent had to adduce evidence that she had inherited the estate or she could represent it in Court. The usual evidence is of course, letters of administration or probate of a will. She produced no such evidence. She did not, in other words, establish her locus standi in the case"*

In such state of affairs, the learned appellate Chairman of the District Land and Housing Tribunal misdirected himself in law and in fact in declaring Charles Richard as lawful owner of the disputed land.

The declaration was seriously wrong on considering invalidity of the proceedings before the tribunals below where both parties had no locus standi.



Back to the gist of the preliminary objection raised. Mr. Sululu cited the decision of this Court in **THE MATTER OF THE ESTATE OF THE LATE NOELA SONGO NYEKAJI** (supra).

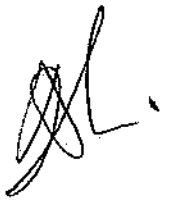
Upon reading the cited case, I noticed that the learned counsel for the respondent went astray. In that case, the learned judge struck out the petition for letters of administration on the ground that the petitioner failed to present alongside petition, a statement explaining the delay.

The learned judge's decision was focused on the requirements of Rule 31(1) of **THE PROBATE RULES, GN NO. 369 OF 1963** which provides that where probate or administration is applied for after expiration of three (3) years from date of death of the deceased, the petition shall contain a statement explaining the delay.

The decision referred to was centered on a petition for letters of administration in the High Court, which in my view, is distinguished from the facts available in the present case being an appeal originating from decisions of the ward tribunal and the District Land and Housing Tribunal.

The present appeal has nothing to do with limitation of time in applying for letters of administration and or failure to give reasons for late filing of a petition for probate or letters of administration.

To the contrary, this Court is bound to adjudicate on aftermath of issuance of the letters of administration by a



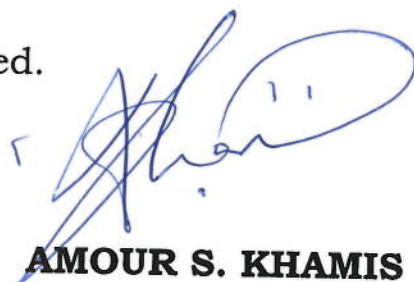
competent Court and not go beyond receiving and or applying the said letters of administration as a license authorizing a party to institute or defend proceedings touching on the deceased's estate.

In view of these glaring omissions, it will be a futile exercise to proceed with the present appeal whose parties have no locus standi.

On account of those material errors on face of the records which renders the entire proceedings a nullity, I opt to exercise revisional powers of this Court under Section 43 (1) (a) (b) and (2) of **THE LAND DISPUTES COURTS ACT, CAP 216, R.E 2019**, and proceed to quash the proceedings, judgment, decisions, decree(s) and or orders of both tribunals below, as I hereby do.

Parties are at liberty to institute proper proceedings in a competent forum and each of them shall bear own costs in this appeal.

It is so ordered.



**AMOUR S. KHAMIS**

**JUDGE**

**8/07/2022**



**ORDER**

Ruling delivered in Chambers in presence of the respondent in person and absence of the appellant.

Right of appeal explained.



**AMOUR S. KHAMIS**

**JUDGE**

**8/07/2022**