

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE SUB-REGISTRY OF DAR ES SALAAM**

AT DAR ES SALAAM

MISC. CIVIL APPLICATION NO. 575 OF 2021

LILIAN ADAM MAMBOSHO APPLICANT

VERSUS

STEPHEN MTUI RESPONDENT

(Arising from the judgment and decree of the District Court of Ilala at Samora dated 12th day of April, 2017 in Matrimonial Cause No. 23 of 2015)

RULING

5th and 12th August, 2022

KISANYA, J.:

On 12th April, 2017, the District Court of Ilala at Samora delivered judgment in respect of Matrimonial Cause No. 23 of 2015 which was instituted before it by the applicant, Lilian Adam Mambosho. Pursuant to the said decision, the marriage between the parties herein was declared to have been broken down irreparably. In addition, the trial court held that the respondent had no share in the matrimonial properties. Further to this, the applicant and one, Stanslaus Vitali Kwembe were also ordered to pay the respondent Tshs. 100,000,000 being general damages for adultery.

Determined to challenge the said decision, the applicant has moved this Court to be pleased to extend time within which to lodge her appeal. The application was instituted in this Court on 9th November, 2021.

Contesting the application, the respondent filed a counter-affidavit which was accompanied by a notice of preliminary objection on the following point of law that:

- 1. This Honourable Court has no jurisdiction to entertain this matter, the Matrimonial case.*

When this matter came up for hearing of the preliminary objection, Mr. Keregero Keregero, learned advocate appeared for the applicant, while the respondent was represented by Mr. Kileo learned advocate.

Mr. Keregero, conceded that, with effect from 27th August, 2021, jurisdiction on matrimonial proceedings originating from Dar es Salaam Region is vested into the One Stop- Judicial Centre of Temeke at the Temeke High Court Sub-Registry. Both counsel referred this Court to the Judicature and Application of Laws (One-Stop Judicial Centre of Temeke) (Establishment Order) Order, 2022, GN No. 640 of 2021 and High Court Registries (Amendment) Rules, 2021, GN No, 638 of 2021.

On the way forward, Mr. Keregero urged me to transfer this matter to the One Stop- Judicial Centre of Temeke at the Temeke High Court Sub-

Registry. In alternative, he submitted the Court is enjoined to strike out the same with no order as to costs. On his part, Mr. Kileo argued that the proper recourse is to strike out the application. He fortified his argument by citing the case of **Wafya Juhudi Vikoba Group vs Samwel Peniel Sambila**, Civil Appeal No. 28 of 2019.

In the light of the foregoing, it is common ground that this matter arises from the matrimonial proceedings which was pending in the District Court of Ilala within Dar es Salaam Region. I agree with the learned counsel for the parties that, with effect from 27th August, 2021, matrimonial proceedings originating from Dar es Salaam Region are heard and determined by the One Stop- Judicial Centre of Temeke at the Temeke High Court Sub-Registry. This is pursuant to order 2 of the Judicature and Application of Laws (One Stop Judicial Center of Temeke) (Establishment Order) Order (supra) and item 18 of the Schedule to the High Court Registries (Amendment) Rules (supra).

The record bears it out that this application was filed on 27th November, 2021. Being guided by position of law, I agree with the learned counsel that the application ought to have been lodged at the One Stop- Judicial Centre of Temeke at the Temeke High Court Sub-Registry. I am alive to the general powers of the High Court in determining civil cases. However, Article 108 (1) of the Constitution of the United Republic of Tanzania makes

it clear that such power is exercised subject to other written laws. Therefore, much as jurisdiction over matrimonial proceedings originating from Dar es Salaam Region are vested in the High Court, Temeke High Court Sub-Registry, One Stop Judicial Center, this Court has no mandate to determine the same. Considering further that the counsel for the applicant has conceded to the preliminary objection, it is hereby upheld by this Court.

With regard to way forward, I have considered that the applicant is praying for extension of time within which to appeal. That being the case, I agree with Mr. Kileo that the appropriate remedy is strike out the same. This recourse will enable the applicant to refile the application in a court with competent jurisdiction.

In the upshot, this application is hereby struck out with no order as to costs due to its nature.

It is so ordered

DATED at DAR ES SALAAM this 12th day of August, 2022.

S.E. Kisanya
JUDGE

COURT: Ruling delivered this 12th day of August, 2022 in the presence of the applicant and respondent. Ms. Zawadi, court clerk present.

**S.E. Kisanya
JUDGE
12/08/2022**