

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

**LAND APPEAL NO. 9 OF 2021**

*(Originating from Maswa District Land and Housing Tribunal in Land  
Application No. 87 of 2016)*

**MATHIAS LUGWALA.....APPELLANT**

*VERSUS*

**LAMADI VILLAGE CPUNCIL..... RESPONDENT**

**RULING**

*22<sup>th</sup> April 2022*

**MKWIZU, J:**

This appeal ascends from the decision of the DLHT in Land application No. 87 of 2016 filed by the appellant above claiming ownership of 23 acres of land located at Lamadi Village against the respondents who claimed that appellant had illegally obtained the same. At the end, the trial tribunal declared the appellant owner of 8 acres and the Respondents were declared owner of the 12 acres

Dissatisfied, Appellant filed this appeal with a total of five grounds of appeal. However, when parties appeared for hearing on 22/4/2022, the learned senior State Attorney Mr. Solomon Lwenge drew the attention of the court on the issue of failure by the application at the trial court to describe the suit land properly for a definite and executable decree. On his party, Mr James Njelwa for the Appellant was in agreement with the learned State Attorney that there was no proper identification /description of the suit land subject of this appeal throughout the trial tribunal's

proceedings, the error that goes to the root of the matter. He referred the court to paragraph 3 of the application that was brought before the trial tribunal and page 12 of the trial tribunals decision arguing that all did not identify the suit land as requested. He prayed for the nullification of the trial tribunals proceedings and decision and an interested party be allowed to file a fresh suit before a proper forum if he so wishes. The learned State Attorney was of the same view that the proceedings be nullified with an order for filing a fresh suit by the party interested. And each part bears owns costs.

It is a legal requirement under Regulation 3(2) of the Land Disputes Courts (The District Land and Housing Tribunals) Regulations, GN No. 174 of 2003 that while initiating a land dispute before the Tribunal one should file a prescribing form disclosing the boundary, size and location of the land in dispute. Interpreting the above regulation, this court in **Daniel Dagala Kanuda (As administrator of the Estate of the late Mbalu Kushaha Bulude) vs Masaka Ibeho and 4 others**, Land Appeal, No. 26 of 2015 HCT at Tabora (Unreported), held:

*" The description of the disputed land in the matter at hand was thus not sufficient enough for identifying it so that the tribunal could effectively resolve the controversy between the parties. The matter was thus incompetent before the tribunal for the uncertainty of the subject matter. Courts of law including the tribunal do not have the jurisdiction to entertain incompetent matters i.e disputes on uncertain subject matter."*

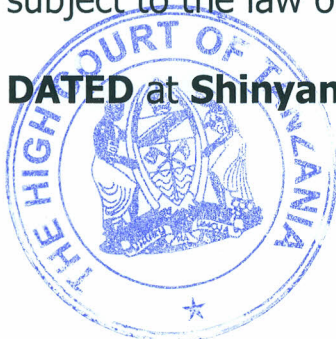


Gleaned from the above authority which I fully subscribe is that the Land tribunal can only exercise its adjudication powers over a dispute related to a specific piece of land. This is so because general description would lead to inexecutable decree rendering the whole adjudication process meaningless

Reverting to our case, It is true that the trial courts proceedings that there is no proper identification of the Suitland . The third paragraph of the amended application describes the suit land as follows "**3. Location and address of the suit Property, the suit property is measured above 23 acres situated at Lamadi Village within Busega District at simiyu Region**" without any details and particulars. No mention of the boundaries or neighbors. The evidence also by the parties before the tribunal did not offer sufficient evidence on the description and identity of the suit land as a result the trial tribunals decision could not specify the 8 acres it awarded to the appellant and so the 12 acres that were awarded to the Respondent rendering its decree inexecutable.

As rightly submitted by the party's counsel, this omission is fatal. The proceedings of the tribunal are a nullity for determining a land matter without proper description. As advised, the trial tribunals proceedings are nullified, and the decision resulted therefrom is set aside. Any interested party may, if so, wishes file a fresh suit before a proper forum, of course, subject to the law of limitation Act. Each party to bear owns costs.

**DATED at Shinyanga this 25<sup>th</sup> day of April 2022.**



  
**E. Y. MKWIZU**  
**JUDGE**  
**25/4/2022**