

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(DODOMA DISTRICT REGISTRY)
AT DODOMA

MISC. LAND APPEAL NO. 16 OF 2022

(Originating from Land Appeal No. 104 of 2019 of Singida District Land and Housing Tribunal and land case No. 13 of 2019 of Mandewa Ward Tribunal)

MIRAJI ALLY NKII..... APPELLANT

VERSUS

NESTORY LUSHINGE RESPONDENT

12/7/2022 & 2/8/2022

JUDGMENT

MASAJU, J

The Respondent, Nestory Lushinge, successfully sued the Appellant, Miraji Ally Nkii in the Mandewa Ward Tribunal for land trespass. Aggrieved by the decision, the Respondent successfully appealed to the Singida District Land and Housing Tribunal at Singida, hence the appeal in the Court.

The Appellant's Petition of Appeal is made up of three (3) grounds of appeal essentially challenging the decision of the District Land and Housing Tribunal for disregarding the survey plan.

When the appeal was heard in the Court on the 12th day of July 2022 both parties appeared unrepresented and prayed to adopt the Petition of Appeal and Reply to the Petition of Appeal respectively to form submissions in support of, and against the appeal in the Court.

In the course of determining the appeal, the Court has noticed that the disputed land has a Sale Agreement, which was tendered in the trial

Tribunal. The said Sale Agreement reveals that the disputed land was bought on the 16th day of January, 2014 at the consideration of TZS 8,000,000/=. The dispute arose in August 2019. By the time the dispute arose, the pecuniary jurisdiction of Ward Tribunals in determining land disputes was TZS 3,000,000/= as so provided by section 15 of the Land Disputes Courts Act [Cap 216].

That being the case, the Court finds that, the Mandewa Ward Tribunal lacked jurisdiction in trying the dispute since the impugned land value was above TZS 3,000,000/=. This irregularity cannot be cured by section 45 of the Land Courts Disputes Act [cap 216] since it goes down to the roots of the court jurisdiction in administration of justice.

That said, by virtue of the revisionary powers of the Court under section 43(1) (b) of the Land Disputes Courts Act [Cap 216] the trial, record of proceedings, judgments and orders of the trial Tribunal and the District Land and Housing Tribunal for Singida are hereby severally and together nullified, quashed and set aside respectively.

Either party to this land dispute may wish to institute a fresh suit in the court of competent jurisdiction against the other party to this dispute for declaration of ownership of the suitland, in which case the parties to the dispute may include the authority responsible for land allocation within the area, that is to say, Singida Municipal Council, accordingly. The parties shall bear their own costs.



GEORGE M. MASAJU

JUDGE

2/8/2022