

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

**CIVIL REVISION NO. 2 OF 2022**

*(Arising from Matrimonial Appeal No. 24 of 2021 Shinyanga District Court  
Origin Matrimonial Cause No. 13 of 2021 Kizumbi Primary Court)*

**SALMA WILLIUM COSMAS..... APPLICANT**  
**VERSUS**

**ATHUMAN HINDA GASHI..... RESPONDENT**

**RULING**

*Date of Last Order; 30/3/2022.*

*Date of Ruling; 30/03/2022.*

**S.M. KULITA, J.**

After delivery of the ruling for the Matrimonial Appeal No. 24 of 2021 Shinyanga District Court on the 19<sup>th</sup> day of November, 2021 this court received a letter accompanied with the case file from the District Resident Magistrate In-charge stating that the Executing Officer, Primary Court Magistrate In-charge for Kizumbi from which

that matter has arisen failed to understand the findings of the Appellate Court of which she is required to supervise execution.

Basically, upon receiving the said concern by the Primary Court Magistrate, the District Resident Magistrate (DRM) In-charge was required to clarify and make the said judgment of the District Court known to the said Primary Court Magistrate who alleged to have not understood it. The said DRM In-charge could have so done to the said Primary Court Magistrate orally or through writings, depending on the mode in which she did receive the said concern from the Primary Court Magistrate.

It couldn't be fatal for the DRM In-charge to attend that matter as long as she doesn't insert her writings in the proceedings. The fact that the DRM In-charge has decided to forward the case files to High Court, it means she has also failed to understand the Judgment of the Appellate Magistrate, Ms. Mariam Mchomba RM.

The High Court has the powers to exercise its revisional jurisdiction to correct errors on the face record *suo motto* or on application

under **section 44(1) of the Magistrate Courts Act, [Cap. 11 R.E. 2019]**. In doing so the High Court can make interventions and give directions necessary in the interests of justice.

In exercising the said powers vested to me, I went through the judgment of the Primary Court and noticed that the judgment of the court was to the effect that the marriage has been broken down irreparably, hence decree of divorce granted. The Primary Court also ordered Athuman Hinda Gashi, the Respondent to pay Salma Willium Cosmas, Petitioner a total sum of Tsh. 800,000/= being part of her share for the matrimonial assets as she had already taken her other share in advance. The 3<sup>rd</sup> order that was granted by the Primary Court was that the Respondent (Athuman Hinda Gashi) was to provide Tsh. 45,000/= per month to the Petitioner (Salma Willium Cosmas) for maintenance of their infant child. The said trial court also excluded the motor cycle from a list of matrimonial assets for the reason that it was not existing.

I also went through the appellate court's records, particularly the judgment. Upon going through the said judgment Matrimonial Appeal No. 24 of 2021 Shinyanga District Court, I have noticed that the appellate Magistrate allowed the appeal to the following extent;

1. That the matrimonial properties be equally divided between the two (page 11 para 1 of the District Court judgment).
2. That the motor cycle be included in the list of properties to be distributed as it was acquired during the existence of marriage. There was no evidence that the same was solely owned by the Respondent (Athuman Hinda Gashi) alone. (page 10 paras 2 and 3 of the District Court judgment).
3. That the evidence reveals that the cash money Tsh. 500,000/= was the Petitioner's (Salma Willium Cosmas') personal money (page 11 and 12 para 1 of the District Court judgment).

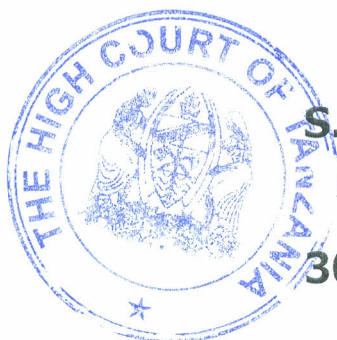
Having gone through the impugned judgment of the District Court and noticed it consisting the above said orders in its decision, it is upon the Primary Court Magistrate to comply with the said orders in the execution of the Decree.

To me, the District Court judgment is clearly drawn and understood. All principles of judgment writing as per **Order XX, Rule 4 of the Civil Procedure Code [Cap 33 RE 2019]** which states;

*"A judgment shall contain a concise statement of the case, the points for determination, the decision thereon and the reasons for such decision"*

have been fully complied with. I find nothing to interfere in the said judgment of the District Court.

In upshot, I find the allegations with no merits, hence dismissed.



A handwritten signature in blue ink, appearing to be "S.M. Kulita".

**S.M. KULITA**

**JUDGE**

**30/03/2022**

