

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

MUSOMA SUB REGISTRY

AT MUSOMA

MSC. LAND APPEAL NO 121 OF 2021

(Arising from Land Appeal no 82 of 2021 at the District Land and Housing Tribunal for Mara at Musoma, Originating from Land Case no 9 of 2021 at Nyegina Ward Tribunal)

MASATU EUNYO APPELLANT

VERSUS

HAMISI MKURU RESPONDENT

JUDGMENT

22nd August & 22nd August, 2022

F. H. MAHIMBALI, J :

In this case, the appellant is dissatisfied with the decision of the two lower tribunals.

The respondent had successfully sued the appellant at the trial ward tribunal for claim of land. Dissatisfied with that decision he unsuccessfully appealed to the DLHT. This is now, the second appeal. He is armed up with a total of four grounds of appeal.

During the hearing of the appeal, the parties were asked whether there was valid judgment of the trial tribunal as per law. None could

give valid contributions to that. However each one stated that the trial tribunal was constituted by six members, out of whom, only one was a woman. According to the ethnic names of this region, I could hardly grasp the female names.

However, my close reading of the trial tribunal record, I got noted that out of the six members constituting the trial tribunal, only three gave their decisions. It is thus, not clear whether the remaining members also gave what decisions.

According to section 4 (3) and (4) of the Ward Tribunal Act, Cap 206, provides the composition, constitution and the manner of giving decisions at the Ward Tribunal.

That at any sitting of the Ward Tribunal, a decision of the majority of members present shall be deemed to be decision of the tribunal and in the event of an equality of votes, the chairman shall have a casting vote in addition to this original vote.

In the current matter, the records establish out of six members, only three gave decisions. These are Gaudensia Webiro, Kakira Manyama, and Julius Karaka. The other three members' decision is not known. As the decision of the trial tribunal is by majority of the

members, the record does not establish that whether this legal requirement was complied with.

The trial tribunal records don't establish the decision of each tribunal member for it to form majority decision. In that absence. The called tribunal decision is not worthy a legal decision notwithstanding the gender issue. I thus nullify it for being a nullity.

The parties are at liberty if still interested to file a fresh suit in a proper forum as per current law governing land disputes.

DATED at MUSOMA this 22nd day of August, 2022.



F. H. Mahimbali

JUDGE

Court: Judgment delivered this 22nd day of August, 2022 in the presence of both parties and Mr. Gidion Mugo, RMA.

F. H. Mahimbali

JUDGE