IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

BUKOBA DISTRICT REGISTRY

AT BUKOBA

MISC. LAND APPEAL NO. 46 OF 2022

(Arising from Land Misc. land Application No. 132 of 2022 of the High court of Tanzania Bukoba Registry; Appeal No. 68 of 2020 of the District Land and Housing Tribunal for Kagera at Bukoba; Civil Case No. 01 of 2020 of Rubafu Ward Tribunal)

ABDALA RAMADHAN .....APPELLANT

VERSUS

JOYCE BALIGE ..... RESPONDENT

JUDGMENT

18/08/2022 & 22/09/2022
E. L. NGIGWANA, J.

This is a second appeal which traces its roots from the decision of the Ward Tribunal of Rubafu in Land Case No. 1 of 2020 where the respondent herein sued the appellant for recovery of a parcel of land allegedly trespassed by the appellant.

Upon hearing parties, the Ward tribunal decided the matter in favour of the respondent and declared her the lawful owner of the disputed land. Aggrieved, the appellant unsuccessfully appealed to the District Land and Housing Tribunal vide Land Appeal No.68 of 2020. In other words; Appeal No.68 of 2020 was dismissed for want of merit.

Again, the appellant was aggrieved by the decision of the appellate tribunal though he lodged no appeal within the prescribed time. He was prompted to apply for extension of time within to file appeal out of time and he did so

successfully vide Misc. Land application No. 132 of 2022, hence this appeal which contains five (5) grounds of grievance as follows;

1. *That, the Trial Tribunal's judgment stands a nullity for declaration of the Respondent a lawful owner of the suit land basing on what transpired during visit of locus in quo while the same is not depicted in its proceedings.*
2. *That, the Appellate Tribunal erred in law and facts for failure to identify that the Respondent had no locus stand to institute the matter at the trial tribunal.*
3. *That, the Appellate Tribunal erred in law and facts for failure to identify that the trial Tribunal was not properly constituted to determine the matter.*
4. *That, the Appellate Tribunal erred in law and facts for failure to identify that the appellant's evidence was heavier than that of the Respondent.*
5. *That, the trial tribunal's decision stands a nullity due to existence of two judgments on the same matter.*

Wherefore, the appellant is praying for the Hon. Court to allow this appeal, quash and set aside both the proceedings and concurrent findings of the lower tribunals and declare the appellant as the lawful owner of the suit land, costs to be borne from the respondent, and any other relief as the court may think fit and just to grant.

When this appeal came for hearing on 15/09/2022, the appellant had the legal services of Mr. Gildon Mambo while Mr. Eliphas Bengesi, learned counsel appeared for the respondent. Before the commencement of the

hearing, the appellant dropped the 4th ground of appeal and remained with the 1st, 2nd, 3rd and 5th grounds of appeal

Arguing the first ground of appeal Mr. Gildon submitted that; as reflected in page 7 of the trial tribunal judgment No. 1 and 2, the decision of the tribunal was based on what transpired in the *locus in quo*, but the proceedings of what transpired in the *locus in quo* are not reflected in the trial tribunal proceedings. According to Mr. Gildon, that was a nullity. He referred this court to the case of **Vedasto Tibyampasha versus Tehobard Boniface Tibahikaho**, Land Appeal No. 27 of 2020, Bukoba-High Court (unreported) where the court held that;

"*Using the records which were not made part and parcel of the court proceedings to form the base of the judgment renders the judgment a nullity on the obvious reason that the judgment will be hanging not based on facts*".

Mr. Gildon also made reference to the case of **Johansen Rutabingwa and Another versus Felix Herman Rutabingwa (Administration of the Estate of the Late Herman Kabobe Kampanju),** Land appeal No. 121 of 2020 HC Bukoba (unreported) where was stressed that that, failure of the record to show what transpired during the visit of the locus in quo is capable of vitiating the proceedings.

Arguing the 2nd ground of appeal Mr. Gildon stated that, the said ground was also raised in the 1st appellate court but it was dismissed on the ground that the respondent had the right to sue over the matrimonial property after the death of her husband. Mr. Gildon further argued that the finding of the 1st appellate tribunal was wrong because the issue whether the property in

dispute was a matrimonial property or not was not raised and determined in the trial tribunal.

According to Mr. Gildon, the fact that the respondent sued over the deceased's property without first petitioning for letters of administration makes her to have *no locus standi* over the matter. He added that in that premise, the respondent had *no locus standi* to institute Land Case No. 1 of 2020 against the appellant. To buttress his argument, the learned counsel referred this court to the case of **Felix Constantine versus Jofrey Modest**, Misc. Land Case Appeal No. 9 of 2010 HC- Bukoba where it was held that;

"*The irregularity of having a person without legal standi to prosecute a suit renders the entire proceedings before the tribunal a nullity.*

Arguing the 3rd ground, Mr. Gildon Mambo submitted that page 14 of the handwritten proceedings of trial tribunal does not reveal the quorum, notwithstanding the fact that the hearing proceeded and copy of the **Will** was received and formed part of the proceedings. He added that, it is a legal requirement that in every sitting in the Ward Tribunal, quorum has to be maintained. He made reference to the case of **Leonard Mrefu versus Ana Petro**, Misc. Land Appeal No. 69 of 2021 where it was held that;

"The quorum of the Ward Tribunal should be maintained in all sittings"

Mr. Gildon added that the rationale of maintaining the quorum is to show that the tribunal was duly constituted to hear and determine the matter but also to ensure transparency and fair trial.

Arguing the 5th ground of appeal, Mr. Gildon stated that, this ground was also raised in the 1st appellate tribunal but it was dismissed on the ground that the Hon. Chairman had not seen two different judgments on the same matter. According to Mr. Gildon, that was not right owing to the reason that the two judgments were annexed to the petition of appeal. He added that at page 7 of the two judgments, the message conveyed is different because in the first judgment the Appellant was condemned to pay the respondent **Tshs. 75,000/=** as costs incurred in prosecution Land case No. 1 of 2020 in judgment No. 2 the appellant was condemned to pay Tshs. **45,000/=** as costs incurred in prosecution of the same case.

Arguing by responding on the 1st ground of appeal, Mr. Benges stated that the judgment of the tribunal was not based in what transpired in the *locus in quo,* therefore, the first ground deserves to be dismissed.

Submitting in reply on the 2nd ground of appeal, Mr. Bengesi argued that the respondent had *locus standi* to institute the case because she inherited the suit land from her deceased husband. He made reference to the case of **Paul Bwishaku versus Magdalena Bwishaku,** Misc. Land Appeal No. 33 of 2013 HC Bukoba (unreported)

As regards the 3rd ground Mr. Bengesi argued that, the issue of quorum in the trial tribunal is a new ground which was not raised in the 1st appellate tribunal, thus cannot be entertained at this stage.

As to the 5th ground, Mr. Bengesi the judgments differed only in terms of cots awarded to the appellant thus, has occasioned no miscarriage of justice.

In his rejoinder, Mr. Gildon stated that the trial tribunal records revealed that the property in dispute was the property of the deceased. It was never stated that it was a matrimonial property. As regard, the issue of quorum, Mr. Gildon argued that, the issue of quorum is a legal issue therefore; it can be raised at any stage even in appeal. He added that, the fact that there are two judgments existing over the same matter that creates more questions than answers.

Having summarized the submissions and arguments of both learned counsels, I am now in a position to determine the grounds of appeal before me. On the first ground, the appellant faults the proceedings of the Ward Tribunal for not featuring what transpired in the *locus in quo* while the judgment revealed that the respondent was declared the owner of the disputed land basing on what transpired in the *locus quo*.

Page 7 of both judgments of the trial tribunal judgment reads.

"*Baraza baada ya kutembelea eneo husika na kuzingatia ushahidi wa Victoria Martin aliyemuuzia mlalamikiwa, Baraza limejiridhisha kuwa mlalamikiwa Abdala Ramadhani amevuka eneo (ardhi) aliyouziwa na amevamia ardhi ya mlalamikaji Joyce Baligé*".

In the 14 pages handwritten proceedings of the trial tribunal, there is nothing indicating that the trial tribunal ever visited the *locus in quo*. The only document which shows that the locus in quo was visited is the judgment.

It is trite law that when the court decides to exercise its discretion of visiting the locus in quo, the guidelines and procedures laid down must be duly

observed. In other words, compliance of the guidelines and procedures is not optional. The Court of Appeal of Tanzania in the case of **Sikuzani Saidi Magambo and Another versus Mohamed Roble,** Civil appeal No. 197 of 2018 (unreported) held that;

"There is no law which forcefully and mandatorily requires the court or tribunal to conduct a visit at the locus in quo, as the same is done at the discretion of the court or the tribunal particularly when it is necessary to verify evidence adduced by the parties during trial. However, when the court or the tribunal decides to conduct such a visit, there are certain guidelines and procedures which should be observed to ensure fair trial"

The procedure to be followed was well elucidated in the case of **Nazir M. H. versus Gulamali Tazal Janmohamud** [1980] TLR 29 where the court held Inter alia that; -

"When a visit to a locus in quo is necessary or appropriate, and as we have said this should only be necessary in exceptional cases, the court should attend with the parties and their advocates, if any, and with much each witnesses as may have to testify in that particular matter, and for instance if the size of a room or width of road is a matter in issue, have the room or road measured in the presence of the parties, and a note made thereof. When the court re-assembles in the court room, all such notes should be read out to the parties and their advocates, and comments, amendments or objections called for and if necessary incorporated. Witnesses then have to give evidence of all those facts, if they are relevant, and the court only refers to the notes in order to understand or relate to the

evidence in court given by the witnesses. We trust that this procedure will be adopted by the courts in future."

In the case of **Prof. T. L. Maliyamkono versus Wilhem Sirivester Erio**, Civil appeal No. 93 of 2021, the Court of Appeal had this to say;

"*Notes should be taken during the visit and then all those in attendance should re-assemble in court and the notes be read out to the parties to ensure its correctness."*

As a mandatory procedure, all parties, their witnesses and their advocates (if any) must be present at the locus in quo and notes must be taken and properly recorded, and then the court or tribunal must be reconvened or reassembled in the court room to consider the notes obtained from that visit because the said notes forms part of the court record and it cannot be considered in isolation from the existing evidence recorded in court. **See** the two cited cases; **Sikuzani** and **Nazir M.** (Supra). The departure or violation of guidelines and procedures laid down for doing any act may render the act a nullity. See **Oraro & Rashier Advocates versus Cooperative Bank of Kenya Ltd [2001]** e KLR

Now, the question is whether the Ward Tribunals are bound by the same guidelines and procedures. It should be noted that the law relaxes the rules of evidence and produce in proceedings before Ward Tribunals section 15 (1) of the Ward Tribunal Act cap. 206 R: E 2002 provides that;

"*The Tribunal shall not be bound by any rules of evidence or procedure applicable to any court."*

Sub-section (2) of section 15 of the same Act provides that;

"A tribunal shall, subject to the provisions of this Act, regulate its own procedure."

Reading the here in above provisions it is apparent that a Ward Tribunal is exempted from being bound by the rules of evidence or procedure applicable in any court. The provisions allow the Ward Tribunal to regulate its own proceedings subject to the Ward Tribunal Act.

However, the fact that the tribunal is not bound by any rules of evidence or procedure applicable in any court, does not mean that such exemption is absolute. If the procedure adopted by the tribunal is contrary to the proper administration of justice, it cannot be allowed to stand. Section 16 of the Ward Tribunal Act, [Cap 206 R.E 2002] is to the effect that; notwithstanding the provision of section 15, a tribunal shall, in all proceedings seek to do justice to the parties.

It is also common knowledge that when proceedings end, the court/tribunal that has considered the case will render a final judgment. In the instant case, the quorum and proceedings in relation to the visit in the locus inquo are missing. In that premise, it cannot be said that the proceedings in relation to the visit in the *locus in quo* were regulated by the ward Tribunal in its own way. In other words, the facts in relation to the visit of the *locus in quo* were not before the trial tribunal; therefore, it was not proper for the trial tribunal to reach a judgment basing on facts which were not before it. For the stated reasons, I find that the 1st ground of appeal is meritorious.

In the 2nd grounds, the appellant's complaint is that the respondent had no *locus standi* to institute a case without first obtaining the letters of

administration of the estate of his late husband who is alleged to have purchased the disputed land during his life time.

An inevitable question here is whether the respondent had *locus standi* to institute the Civil Case No. 01 of 2020.

The law on *locus standi* is very clear as the same had been repeatedly in many cases in this Land. The *Locus Standi* has been defined in the famous case of **Lujuna Shubi Balonzi versus Registered Trustees of Chama cha Mapinduzi** [1996] TLR, 203, 208 as:

"A Principle governed by common law whereby in order to maintain proceedings successfully, a plaintiff or an applicant must show not only that the court has power to determine the issue but also that he is entitled to bring the matter before the court".

Further, in Halbury's Law of England 4th Edition paragraph 49 at page 52 which states as follows:-

"Locus standi means a party must not only show how that the court has power to determine the issues but also that the party is entitled to bring the matter before the court."

I have been also persuaded by one of the Kenyan case; **Julian Adoyo Onginga versus Francis Kiberenge Abano Migori,** Civil Appeal No.119 of 2015, where the High Court of Kenya held that;

"*The issue of locus standi is so cardinal in a civil matter since it runs through to the heart of the case. Simply put, a party without locus standi in a civil suit lacks the right to institute and /or maintain that suit even where*

a valid cause of action subsists. Locus standi relates mainly to the legal capacity of a party. The impact of a party in a suit without locus standi can be equated to that of court acting without jurisdiction. Since it all amounts to null and void proceedings. It is also worth noting that the issue of locus standi becomes such a serious one where the matter involves the estate of the deceased person since in most cases the case involves several other beneficiaries or interested parties."

From the herein above authorities, it is apparent that *locus standi* is one of the thresholds of instituting a suit. The same can affect the jurisdiction of the court, and therefore, can be raised at any time in the proceedings or on appeal like in the present matter. If a party does not have *locus standi* to institute an action, the court would have no jurisdiction to entertain the suit. This rule was developed to protect the courts from being used as a playground by professional litigants, busy bodies and meddlesome interlopers who have no real interest in the subject matter of the litigation. It restricts access to the courts to persons with only genuine grievances.

The general rule known worldwide is that, when the property in dispute belongs to the deceased person, the only person with *locus standi* to sue on behalf of the estate is the one who has sought and obtained letters of administration of the deceased's estate. See **Omary Yusuph (Legal representantive of the late Yusuph Haji) versus Albert Munuo,** Civil Appeal No.12 of 2018 CAT (Unreported) and **Dominica Pius versus Kasese@John Lumoka,** Civil Appeal No.93 of 2010 CAT (Unreported)

In the case of **Tatu Adui versus Malawa Salum and Another**, Misc. Civil Application No. 8 of 1990 HC DSM that;

"Only administrator of the estate who is also a personal legal representative of the deceased can sue or be sued over the estate."

Furthermore, the High court of Tanzania Kigoma Registry in the case of **Kagozi Amani Kagozi (Administrator of the estate of the late Juma Selemani versus Ibrahim Seleman,** Land Appeal No. 2 of 2019 had asked itself whether the suit by the respondents at the trial tribunal was competent in the absence of letters of administration while the disputed property being alleged to be the property of the deceased person. The court (Matuma J) answered that question in the negative. The court emphasized that; **locus standi** to sue or defend the estates of the deceased person vests to the administrators. See also **Hosea Emmanuel versus Sophia E. Rintenge (**PC) Land Appeal No. 9 of 2020.

Furthermore, in case of **Morrison Samwel versus Frugensi Bikale** (Supra), Bongole. J held that;

"If the respondent thought that he was interested to in defending the late Faustin's estates, he ought to have applied for the letters of administration of the estates."

Considering the herein above cited authorities together with Section 71 of the Probate and Administration of Estates Act Cap 352 R: E 2019 and Paragraph 6 of the Fifth Schedule to Magistrates Courts Act, Cap.11 R.E 2019, it is apparent that, right after the grant of probate or letters of administration; only Administrator or Adminitratix, or Executor or Executrix of the estate of the deceased can sue or be sued over the estate.

For easy reference, Section 71 of the Probate and Administration of Estates Act Cap 352 R: E 2019, provides that;

"After any grant of probate or letters of administration, ***no person other than the person whom the same shall have been granted shall have power to sue or prosecute any suit or otherwise act as a representative of the deceased, until such probate or letters of administration shall have been revoked or annulled."***

Paragraph 6 of the Fifth Schedule to Magistrates Courts Act, Cap.11 R.E 2019 provides that;

"An administrator ***may*** *bring and defend proceedings of behalf of the estate."*

The crucial question here is that, is it absolute that without probate or letters of administration, no other person has ***locus standi to sue over the property of the deceased*****?**

The answer to this question has been provided for in the case of **Amina Athumani versus Hadija Mohamed Ninga,** Land Appeal No.36 of 2013 HC Tabora, Sahel J (as she then was) held that;

" *For a person to have locus over the estate of the deceased must have been appointed as an administrator of the estate, is a general rule worldwide* ***but in certain circumstances especially when it is shown that it is necessary to preserve and protect the estate of the deceased, one may bring the suit without necessarily obtaining first letters of administration"*** **(Emphasis added)**

In the case of **Amina d/o Athuman versus Hadija Mohamed** (Supra) the court held that; despite the fact that the respondent had no letters of administration, she had an interest to protect and preserve of herself as a wife of the deceased.

In the case of **Maulid Makame Ali versus Kesi Khamis Vuai,** Civil Appeal No.100 of 2004 CAT (Unreported) the Court of Appeal of Tanzania held among other things that;

"Also in instituting the suit, the respondent had locus standi as a heir of the estate (shamba) after the death of his father."

With no doubt, the holding of this case informs us that the *locus standi* to sue and protect the interest in the deceased estate can also be acquired by virtual of being a heir.

I have been persuaded by the decision of the Supreme Court of Uganda in **Israel Kabwa versus Martin Banoba** SCCA.No.52 of 1995. In this case, the complaint was that; the trial judge erred in law and fact when he held that the respondent had sufficient *locus standi* to bring and maintain the suit against the appellant while he had not obtained letters of administration to the estate of his late father. The appeal was dismissed because the Supreme found that the respondent's *locus standi* is founded on his being the heir and son of his late father.

I am alive of the case of **Abeli Kajoki and 2 Others versus Innocent Jams,** land appeal No. 27 of 2016 – HC Bukoba Kairo, J. (as she then was) quoted with approval the case of "**Felix Constantine versus Jofrey**

Modesti, Land Appeal No.9 of 2010 " Bukoba Registry where it was held that;

To be a heir of the estate creates an interest on the part of the heir but that does not give him an automatic locus standi to sue or to be sued over the property of the deceased."

The holding informs us that to be heir of the estate creates an interest on the part of the heir but does not give him or her an automatic locus standi to sue or to be sued. But it does not mean that where it is shown that it is necessary to preserve and protect the estate of the deceased, a heir may not bring the suit without necessarily obtaining first letters of administration.

I am also alive of the decision given by Hon. Nyangarika, J. (as he then was) of which I am persuaded to follow in the case of **Jackson Nyasari versus Nyamasagare Nyasari**, Probate No. 6 of 2007 that;

"*Where one spouse dies, the entire estate remains in the hands of his wife as both parties have equal rights in that estate. That the essence of filing a probate cannot arise until both spouses had died... it can only arise where there is a "will" which is being disputed or where there is more than one surviving wives of the deceased in Islamic or customary law disputing on the administration of the estate."*

In this decision of my learned brother Nyangarika J, profess the school of thought which recognizes customary distribution of the estate which does not necessarily entitles parties to file a probate matter to have the estates distributed. This school of thought was also followed by Mwangesi J in

Julius Fundi and Others versus Ernest Pancras, Probate and Administration Appeal No.03/2013.The court had this to say;

"That being the case, there was no question of application for letters of administration in so far as the estate of the late Yustace Kalutegwa was concerned.....Application for letters of administration can only be invoked where, the Will left by the deceased falls under what has been stipulated under paragraph 29 of GN.436 of 1963 (Customary Law Declaration Order.....To proceed to appoint an administrator, who in actual sense would have nothing to administer rather creating some unfounded claims in respect of the estate of the deceased, which already indicated above, already have owners."

Among other things, the case of **Paul Bwishaku versus Magdalena Bwishaku, Misc. Land Appeal No. 33 of 2013 HC Bukoba (unreported)** emphasizes that where the properties were distributed to specific owners before the occurrence of death, there will be no need to appoint the administrator/ adminitratix of the deceased's estate because he/she will have nothing to administer.

In the case of **Paul Bwishaku versus Magdalena Bwishaku (Supra)** Mwangesi, J. held that;

"The fact that there was ample evidence to establish that, indeed, the respondent was the wife of the deceased as held by the learned chairman of the District Land and Housing Tribunal the respondent was the co-owner of the land and homes, in which she was left by her late husband and as a result, there was no requirement for her to apply to administer the property which was partly hers. Put it in either way, following the death of her

husband the respondent remained to be the owner of the properties which she previously owned jointly with her husband. The late Pantaleo Mugizi did distribute all his properties to those whom the opined deserved while he was still alive, meaning during his death, every property had its specific owner."

Reading the decision by Mwangesi, J. in the case **Paul Bwishaku versus Magdalena Bwishaku** (Supra) and Nyangarika, J. in the case of **Jackson Nyasari versus Nyamasagara Nyasari** (Supra), it is apparent that where it is shown that it is necessary to preserve and protect the estate of the deceased, a surviving spouse, being a co-owner of the property, may bring a suit without necessarily obtaining first letters of administration, the position which I do subscribe.

Being guided by the herein above authorities, it is apparent that in certain circumstances especially when it is shown that it is necessary to preserve and protect the estate of the deceased, the deceased's wife or heir may bring a suit without necessarily obtaining first letters of administration.

In the instant case, the respondent being the deceased's wife, she had locus standi to institute Land Case No. 01 of 2020 of Rubafu Ward Tribunal in order to preserve and protect the estate of the deceased. That being the case, the 2nd ground of appeal fails.

On the 3rd ground, the appellant complaint is that, on 03/09/2020, the hearing proceeded before the trial tribunal in which the copy of the "will" was tendered but the quorum of that date was not reflected in the proceedings. It is a legal requirement the proceedings of the Ward Tribunal must show in every sitting, members who participated in the hearing of the

matter otherwise, it will be difficult to know whether the members who participated to compose judgment were the same as those who appeared during the trial. In other words; it is difficult to know whether throughout hearing, the tribunal was properly constituted. In the case of **Edwin Kwegesigabo and Another versus Adventina Gerevazi**, Misc. Land appeal No. 33 of 2021 (unreported) it was held that;

"*The quorum of a Ward Tribunal should be maintained in all sittings.*"

In the case at hand, I agree with the learned counsel for the appellant that the trial tribunal erred in law for failure to disclose members who heard the matter on **03/09/2020,** and the omission is fatal. In that respect, the third ground of appeal is meritorious.

As regard, the 5th ground of appeal, the complaint of the appellant is that the Ward Tribunal erred in law for rendering two conflicting judgments in the same matter. It is true that this issue was raised in the appellate tribunal but it was dismissed on ground the Hon. Chairman did not see the said judgments in the court Ward Tribunal.

Upon perusal of the appellate tribunal record, I found that the Petition of Appeal filed in the DLHT on 05/11/2020, the Appellant annexed two copies judgment of the trial tribunal which differ in contents. The first copy at page 7 reads;

"Hivyo mlalamikiwa atoke kwenye ardhi hiyo aliyovamia na kurudisha gharama za mlalamikaji Joyce Balige alizotumia kuendesha kesi hii ***Tshs. 75,000/= (Shilingi arobaini na tano elfu tu).***

The second copy at page 7 reads;

"Hivyo mlalamikiwa atoke kwenye ardhi hiyo aliyovamia na kurudisha gharama za mlalamikaji Joyce Balige alizozitumia kuendesha kesi hii ***Tshs. 75,000/= (Shilingi Sabini nan a tano Elf utu)."***

The existence of two judgments of the same tribunal on the same matter with different contents is a gross irregularity which can never be allowed to stand. The same renders both judgments a nullity. In the instant case, both judgments of the trial tribunal are hereby declared a nullity.

In the upshot, I invoke revisional powers of this court under section 43 (1) (b) of the Land Disputes Courts Act, Cap 216 R: E 2019 to nullify the proceedings of both lower tribunals, quash and set aside the concurrent judgments of the lower tribunals. It should be noted that vide the Written Laws (Miscellaneous Amendments) Act No. 5 of 2021, the jurisdiction of Ward Tribunals over matters is limited to mediation therefore, re-trial is not a proper remedy in the instant matter. The respondent, if still interested, is at liberty to institute a fresh suit against the appellant in court or tribunal with competent jurisdiction, but subject to the laws the land. Since the anomalies were not caused by the parties, each party shall bear its own costs. It is so ordered.

Dated at Bukoba this 22nd day of September, 2022.

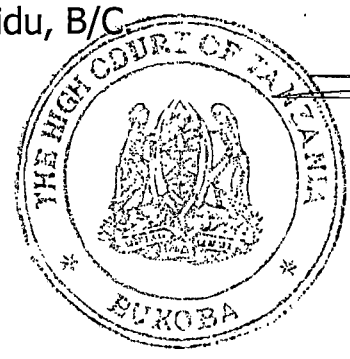
THE HIGH COURT OF TANZANIA
BUKOBA

E. L. NGIGWANA

JUDGE

22/09/2022

Judgment delivered in the presence of the both parties and in person, Mr. Gildo Mambo for the appellent, Miss. Jovitha, Learned Advocate for the respondent, Hon. E.M. Kamaleki, Judges Law Assistant and Ms. Tumaini Hamidu, B/C.



E. L. NGIGWANA

JUDGE

22/09/2022