

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

MISCELLANEOUS LAND REVISION NO. 11 OF 2022

*(Arising from Miscellaneous Application No. 6/2019 of the District Land and Housing Tribunal at Ngara
and originating from Civil Case No. 2/2016 of Rusumo Ward Tribunal)*

GWASA A. SEBABI.....APPLICANT

VERSUS

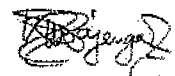
JOSEPH MEROMA.....RESPONDENT

RULING

17th October & 21st October 2022

Kilekamajenga, J.

In 2016, the respondent sued the respondent in the Ward Tribunal of Rusumo in Ngara District over the ownership of a piece of land. After the full trial of the case, the Ward Tribunal composed two judgments; one judgment decided in favour of the appellant and the other one gave right of ownership of the land to the respondent. Being aggrieved with the two conflicting decisions of the trial tribunal, one of the parties took the matter to the Prevention and Combating of Corruption Bureau (PCCB) for further investigation. As a result, the secretary, together with one member of the trial tribunal, was charged with criminal cases at the Resident Magistrates' Court of Bukoba. However, none of the parties appealed to challenge the two conflicting decisions of the trial tribunal. Sometimes in 2019, the respondent filed Misc. Application No. 06 of 2019



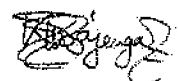
seeking to execute one of the decisions of the trial tribunal that him right of ownership over the land. The tribunal chairman, despite being informed about the existence of two competing decisions of the trial tribunal, ordered the execution in favour of the respondent. The chairman appointed the office of the District Commissioner of Ngara to execute the order of Rusumo Ward Tribunal. The order of execution aggrieved the applicant who approached this Honourable Court for justice.

Before this court, the application to challenge to execution of the decision of the Ward Tribunal was made by way of revision and supported with an affidavit of the applicant. The application was made under section 43(1) (b) of the Land Disputes Courts Act, Cap. 216 RE 2019 and Order XLIII of the Civil Procedure Code, Cap. 33 RE 2019. When the parties appeared to defend the application, the applicant was present by also represented by the learned Advocate, Mr. Abel Rugambwa. The respondent who was absent was represented by the learned Advocate, Mr. Raymond Laurent. Mr. Rugambwa for the applicant informed the court on the major reason for the application; that, the District Land and Housing Tribunal at Ngara ordered the execution of the decision of the Ward Tribunal in Civil Case No. 2 of 2016 while the same case had two conflicting decisions. Based on this anomaly, the counsel for the applicant prayed to nullify the execution done by the District Land and Housing Tribunal for the parties to seek




justice in court/tribunal. The response from Mr. Laurent for the respondent supported the fact that there are two competing decisions of the Ward Tribunal. Being an honest officer of the court, Mr. Laurent also prayed to nullify the execution done by the District Land and Housing Tribunal so that the parties may be at liberty to challenge the two decisions of the Ward Tribunal.

This court is moved to determine whether the execution done by the District Land and Housing Tribunal at Ngara in Misc. Land Application No. 06 of 2019 was right. In addressing this pertinent issue, there is no doubt that, the Ward Tribunal, in Civil Case No. 2 of 2016 gave two decisions. As already stated, each party had his own decision decided in his favour. The appellant believed to have won the case and the respondent too had a decision in his favour. It is very unfortunate that, the anger of one of the parties prompted his response by reporting the matter to the PCCB something which led to a criminal trial of some of Ward Tribunal members. The respondent, in this application, later filed an application to execute the decision of the trial tribunal that was made in his favour. It is, again, unfortunate that the District Land and Housing Tribunal, despite being informed about the existence of two competing decisions did not take the matter in its arms and call the records of the trial tribunal and revised the decisions. Instead, the chairman of District Land and Housing Tribunal fell into the snare of ordering execution based on decision that decided in favour of



the respondent. As long as there were two conflicting decisions on the same case, the District Land and Housing Tribunal erred in ordering the execution. Without further ado, I find merit in the application and for the reasons stated above, I hereby nullify the execution done by the District Land and Housing Tribunal in Misc. Land Application No. 06 of 2019. The matter should now remain open for an party to seek justice in the appropriate court or tribunal for the two competing decisions of the Ward Tribunal to be rectified or rather nullified. As the error was occasioned by the District Land and Housing Tribunal, each party should bear his costs of this case. It is so ordered.

DATED at BUKOBA this 21st day of October, 2022.


Ntemi N. Kilekamajenga.
JUDGE
21/10/2022

Court:

Ruling delivered this 21st October 2022 in the presence of the counsel for the applicant, Miss Gisera Rugemarila (Adv) but in absence of the respondent. Right of appeal explained.




Ntemi N. Kilekamajenga.
JUDGE
21/10/2022

