

IN THE HIGH COURT OF UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF SHINYANGA

AT SHINYANGA

MISC. LAND APPLICATION No. 37 OF 2022

(Originating from Misc. Land Application No. 57 of the High Court of Tanzania at Shinyanga District Registry)

JOYCE LEONARD.....APPLICANT

VERSUS

ALEXANDER MASUMBUKO JOSHUA.....1ST RESPONDENT

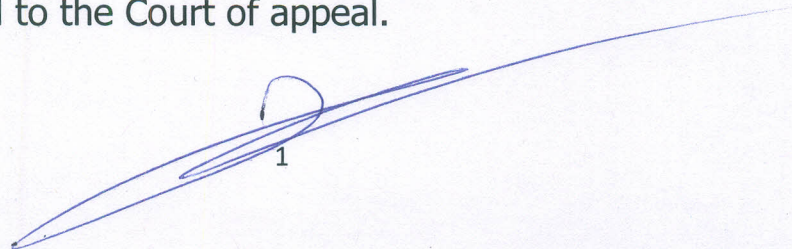
DEOGRATUS MWANGOKA2ND RESPONDENT

(Administrators of the Estate of the late Joshua Lyaki Nyilili)

RULING

This is an application for leave to appeal to the Court of appeal of Tanzania against the Ruling of this court which denied the applicant extension of time to appeal against the decision of the District Land and Housing Tribunal .

At the hearing of this application Mr. Bakari Chubwa Muheza learned advocate who represented the respondent raised an issue to the effect that the impugned decision of this court having been entered by this court in the exercise of its original Jurisdiction, the Applicant needs no leave of this Court to appeal to the Court of appeal.



1

She has the right to appeal without seeking and obtaining leave of this court.

The applicant being a lay person had nothing useful to contribute on the issue.

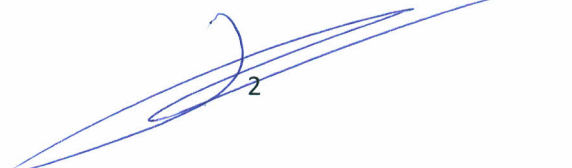
I agree with the learned advocate for the respondent that when a party is aggrieved by the decision of this court in the exercise of its original Jurisdiction, he or she may appeal direct to the Court of appeal of Tanzania without necessarily seeking and obtaining leave for that purpose.

That is the requirement under section 47 (1) of the Land Disputes Courts **Act Cap. 216 R.E 2019** which provide;

*"A person who is aggrieved by the decision of the High Court **in the exercise of its original jurisdiction** may appeal to the Court of Appeal in accordance with the provisions of the Appellate Jurisdiction Act."*

Leave is a requirement only if the impugned decision of the High Court originates from the exercise of Revisional or Appellate Jurisdiction as per section 47 (2) of Cap. 216 Supra which provides;

*"a person who is aggrieved by the decision of the High Court **in the exercise of its Revisional or appellate***



2

jurisdiction may, with the leave of the High Court or the court of Appeal, appeal to the court of appeal"

The instant matter originates from this Court in the exercise of its original Jurisdiction.

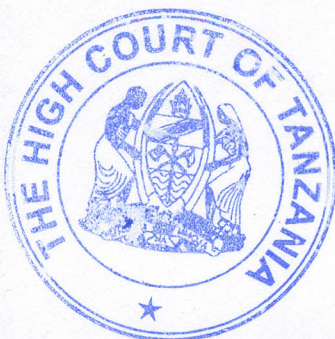
The applicant started her case in this court by way of chamber summons and affidavit for extension of time. It was neither a Revision Application or Appeal. It was a fresh Application seeking this court to exercise its original jurisdiction and grant extension of time.

In the circumstances, the applicant having been denied such extension needs no leave to appeal. He my appeal direct to the court of appeal without seeking and or obtaining leave of this Court. See, ***Buchambi Mirobi versus Jilala Magashi (administrator of the estate of the late Shabani Nyanda, deceased), Misc. Land Application no. 48 of 2020.***

With the herein analysis, I find this application to have been misconceived, it is incompetent and accordingly struck out.

No orders as to costs.

It is so ordered.



**A. MATUMA
JUDGE
30/11/2022**