

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

**MISC. LAND APPLICATION NO. 22 OF 2021**

(Originating from the decision of Karatu District Land and Housing Tribunal, Misc.  
land Application No. 72 of 2019, Originating from Application No. 62 of 2018)

**THADEUS QUWANGA..... APPLICANT**

**VERSUS**

**BO'O META MORO.....1<sup>ST</sup> RESPONDENT**

**SLAA KULE.....2<sup>ND</sup> RESPONDENT**

**DIYO KULE..... 3<sup>RD</sup> RESPONDENT**

**EMAO UMALI KULE.....4<sup>TH</sup> RESPONDENT**

**YOHANA UMALI KULE.....5<sup>TH</sup> RESPONDENT**

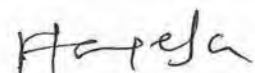
**SIMON KULE.....6<sup>TH</sup> RESPONDENT**

**RULING**

10.05.2022 & 13.05.2022

**N.R. MWASEBA, J.**

This application by the applicant, Thadeus Quwanga is made under  
Section 47 (2) of the Land Disputes Courts Act, [Cap 216 R.E 2019],



Section 5 (1) of the Appellate Jurisdiction Act, [ Cap 141 R.E 2019], read together with Rule 45 (a) of the Tanzanian Court of Appeal Rules. According to the chamber summons, the applicant prayed for leave to appeal to the Court of Appeal of Tanzania (CAT) against the judgment of the High Court of the United Republic of Tanzania, Land Appeal No. 7 of 2021. The application is supported by his own affidavit.

On their side the respondents filed joint counter affidavit which was sworn by all of them objecting the application.

In this application both the applicant and the respondents appeared in person. On 10<sup>th</sup> day of May 2022, when the matter came up for mention, the applicant prayed to withdraw the matter with no order as to costs. He added that since Hon. Massara, J ordered for retrial in Land Appeal No 7 of 2021, he wants to go and institute a fresh case to the district land and Housing tribunal as per the order of this court. This will serve their time instead of going to the court of appeal. It was his further submission that since in the impugned judgment it was ordered each party to bear their own costs, that's why he prayed to withdraw this application with no order as to costs.

On their side both the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> did not object to the applicant's prayer of withdrawing the application, however, they prayed

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to be awarded costs. The 6<sup>th</sup> respondent added that, they incurred costs when this application was filed, further to that there are some orders of the DLHT which is being executed despite the decision of this court which set aside the alleged decision of the Land Tribunal. They had incurred costs to pay the counsel, for transport, food and their time too.

In his rejoinder, the applicant told the court that, both of them had incurred costs and even if the application will be granted, they will still incur costs, that's why he decided both of them to get the right to be heard at the tribunal by instituting a fresh case. So, he prayed for the application to be withdrawn with no order as to costs.

Having heard the rival submission of both parties, the main issue for determination is whether the application should be withdrawn with no order as to costs.

It is well provided under **Section 30 (1) of the Civil Procedure Code**, CAP 33 RE 2019 that it is the discretion of the court to award costs of the case or not. However, under subsection (2) of the same provision stipulates that where the Court directs that no costs shall be paid, the court shall state its reasons.

I am aware that this court ordered for retrial of Misc. land Application No. 72 of 2019 through Land Appeal No. 7 of 2021. The applicant herein opted

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to seek for leave to appeal to the Court of Appeal. Now he has decided to withdraw it in order to adhere with the order of the court for retrial.

I have considered the reason for withdrawing the application and the fact that the applicant decided to withdraw the matter at the earliest stage without wasting the court's precious time and the time of the parties. I therefore agree with his prayer.

Having foresaid, this application is hereby withdrawn with no order as to costs.

It is so ordered.

**DATED at ARUSHA** this 13<sup>th</sup> day of May, 2022.



*N.R. Mwaseba*  
**N.R. MWASEBA**

**JUDGE**

**13.05.2022**