

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
IN THE DISTRICT REGISTRY OF MUSOMA**

**AT MUSOMA**

**CIVIL CASE APPEAL No. 3 OF 2022**

*(Arising from the District Court of Tarime at Tarime in Civil Case No. 6 of 2021)*

**AMASHA NYAKIRIGA ----- APPELLANT**

**Versus**

**IDD SAKU ----- RESPONDENT**

**JUDGMENT**

**02.03.2022 & 02.03.2022**

**Mtulya, F.H., J.:**

The **District Court of Tarime at Tarime** (the district court) in **Civil Case No. 6 of 2021** (the case) in June 2021, had received and determined the case to its finality. The facts of the case were very briefly as displayed at page 1 of the judgment which was delivered on 6<sup>th</sup> December 2021.

*The plaintiff in this case sued the defendant (Idd Saku) claiming Tshs 4,950,000/= being loss of his salaries for nine months. It is alleged in the plaint that the defendant in this case stole the cellular phone of the plaintiff and was convicted of that offence. It was further elaborated in the plaint that the prosecution of the said case..... [the plaintiff] had several trips to attend his case and due to that fact the plaintiff was expelled from his work. The plaintiff therefore decided to sue the respondent for damages as he was*

*unemployed for a total of nine (9) months due to the respondent's faults.*

After full hearing of the case, the district court dismissed the case for want of proof of the claims. The reasoning of the court was drafted at page 3 of the decision that there were no tangible evidence for the appellant to substantiate his case. Both decision and reasoning of the district court in the case is disputed in the present appeal. In this appeal the appellant filed two (2) grounds of appeal, in brief: *first, the district court erred in law as it failed to give guidance to the parties to achieve justice; and second, the district court failed to order general damages as the parties agreed in the case that there is cause of action.*

The appeal was scheduled for hearing today afternoon and the appellant, who appeared in person without any legal representation, briefly stated that the learned magistrate did not consider the facts and evidences produced to him for determination and prayed this court to scrutiny the facts and evidence as first appellate court and produce its own conclusion. The respondent on his part declined to appear to defend the suit despite proof of service.

However, in the course of hearing of the appeal and inspection of the record to find its own conclusion, this court noted that the

district court in admitting and deciding the case to finality had no jurisdiction for want of the requirement of the law in section 18 (1) (iii) of the **Magistrates' Courts Act** [Cap. 11 R.E. 2019] (the Act), which require pecuniary jurisdiction on matters like present one to be registered and determined at the first instance court, primary court, within the jurisdiction of the dispute.

This court has additional duty of ensuring proper application of the laws by the subordinate courts. It has mandate to address vivid illegality and that it cannot justifiably close its eyes when it is aware of the same in the record (see: **Diamond Trust Bank Tanzania Ltd v. Idrisa Shehe Mohamed**, Civil Appeal No. 262 of 2017). As the district court failed to take into consideration of the law in section 18 (1) (iii) of the Act, which it should have taken, this court has mandate to interfere the proceedings and decisions of the district court (see: **Veneranda Maro & Another v. Arusha International Conference Centre**, Civil Appeal No. 322 of 2022).

Having noted, the district court acted outside its pecuniary mandate as per law in section 18 (1) (iii) of the Act, I have decided to set aside the proceedings and quash decision of the district court for want of proper application of the law in section 18 (1) (iii) of the Act. The appellant if so wish, may initiate a fresh and proper case in an appropriate forum in accordance to the laws regulating civil suits.

I award no costs in this appeal as the respondent declined appearance to protest the appeal, and in any case the case before the district court was incompetent for want of the law in the Act, which was caused by the appellant and blessed by the district court.

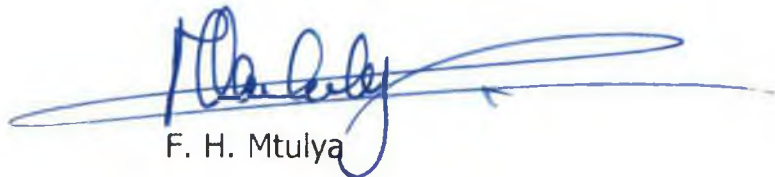
Ordered accordingly.

A handwritten signature in blue ink, appearing to read 'F. H. Mtulya', with a long horizontal flourish extending to the right.

**Judge**

02.03.2022

This judgment is delivered in Chambers under the seal of this court in the presence of the appellant, Mr. Amasha Nyakiriga and in absence of the respondent Mr. Idd Saku.

A handwritten signature in blue ink, appearing to read 'F. H. Mtulya', with a long horizontal flourish extending to the right.

**Judge**

02.03.202