

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

MISC. LAND APPL. NO. 73 OF 2020

*(Originating from District Land and Housing Tribunal of Shinyanga in Land Appl. No.
55/2020)*

EZEKIEL HANGAYA IDAMA.....APPLICANT

VERSUS

SHINYANGA MUNICIPAL COUNCIL.....RESPONDENT

RULING

10 march, 2022

A. MATUMA, J:

In the District Land and Housing Tribunal for Shinyanga at Shinyanga, the Applicant successfully instituted a land dispute over ownership of land which the government took and constructed a school thereat. In its judgment, the trial tribunal ordered valuation to be carried on and the Applicant be compensated accordingly or be re-allocated another land of the same market value.

Both parties were satisfied and did not appeal.

In the course of execution, it seems valuation was conducted but the Applicant was not satisfied with it. He thus lodged an application to the trial tribunal to review its previous compensation order. The trial tribunal in rejecting the application maintained the valuation and decreed it as part of its previous decree.

The applicant is now seeking extension of time to challenge such ruling. At the hearing of this application Mr. Emmanuel sululu learned advocate represented the Applicant while Mr. Mussa Mpogole and George Kalenda learned state Attorneys represented the Respondent.

Both parties agreed that in deed the trial tribunal wrongly consentrated in the merits or otherwise of the valuation report while the matter before him was not whether such valuation was lawful or not, satisfactory or not. They thus suggested that, instead of extending time for the Applicant to appeal against such ruling, I invoke my Revisional powers to remedy the situation.

I agree with both parties that in deed, the Hon. Chairman erred to issue his ruling on the valuation Report while the parties did not litigate on it before him. His conclusion thus denied the Applicant a right to challenge the valuation Report in accordance to the laws available.

In the circumstances, I invoke my Revisional powers and do away the ruling and drawn order of the trial tribunal in Misc. Application No. 55 of 2020. The same is quashed and the status of the parties remain with the judgment and decree in land Application No. 56 of 2015.

I have exercised my Revisinal powers under the power conferred on me under the provisions of section 79(1)(c) of the Civil Procedure Code, Cap. 33 R.E 2019.

I am also equipped with the authorities in the case of **Elikana Bwenda v. Sylivester Kuboko, Civil Appeal No. 7 of 2020**, High Court at Kigoma and that of **Editor, Majira News paper and 3 others v. Rev. Fr. Riccardo Enrico Riccion and 26 others, Civil Appeal No. 35 of 2013** (CAT), in which it was held that the Court with appellate powers

may not decided to consider the appeal on merit but rather exercise its Revisional powers when it observes unpleasant features in the trial Court's record.

In the instant matter, it is an application for extension of time to appeal against the ruling which has appeared errors to the extent that both parties have observed them and agreed that such ruling cannot stand.

Therefore instead of extending time to cause the Applicant go back and return in this court by way of appeal for obvious grounds as indicated herein above, I have decided to invoke my such revisional powers to remedy the situation.

The applicant is therefore at liberty to challenge the valuation report in accordance to the available procedures. No orders as to costs. It is so ordered.




A. MATUMA
JUDGE
10/3/2022