

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
TEMEKE HIGH COURT SUB- REGISTRY
(ONE STOP JUDICIAL CENTRE)
AT TEMEKE**

CIVIL APPEAL NO 4 OF 2022

ABDALLAH ATHUMANI MPONDA APPELLANT

VERSUS

SAMIA MUSSIE ABRAHA..... RESPONDENT

RULING

29/3/2022 & 30/3/2022

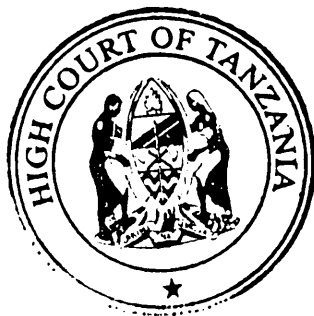
I.C. MUGETA, J

On 28/10/2022, the trial court overruled the objection by the appellant that it had no jurisdiction to entertain the matrimonial dispute between the parties and that the matter before it is "fait accompli". Aggrieved, he has appealed to this court. The respondent has raised an objection that the decision of the trial court is unappealable in terms of section 74(2) of the Civil Procedure Code [Cap. 33 R.E 2019 which reads:

“Notwithstanding the provisions of subsection (1), and subject to subsection (3), no appeal shall lie against or be made in respect of any preliminary or interlocutory decision or order of the District Court, Resident Magistrate’s Court or any other tribunal, unless such decision or order has effect of finally determining the suit”.

Indeed, the decision of the trial court is interlocutory. Arguing in support of the application Mr. Othman Omary, learned advocate for the respondent, made a very brief submission. He argued that in terms of the cited section of the said law, this appeal is untenable. He cited two cases of this case to support his assertion. These are **Christian Kalinga v. Paul Ngwembe**, Misc. Application No. 26/2020, High Court - Iringa (unreported) and **Iringa Municipal Council v. Embalasasa Company Limited**, Civil Appeal No. 4/2020, High Court – Iringa (unreported). In response, the appellant missed the point. He submitted that he is aggrieved because he resides at Bagamoyo, therefore, the trial court has no jurisdiction. It is my view that this argument is good for the appeal itself not for the objection on the competency of the appeal.

Having considered arguments of both parties, I hold that this appeal is incompetent as it is against an interlocutory order. In that regard, I sustain the objection. The appeal is dismissed with costs.



Mugeta
I.C. MUGETA

JUDGE

30/3/2022

Court: - Ruling delivered in chambers in the presence of the appellant and Othuman Omary Advocate for the respondent.

Sgd: I.C. MUGETA

JUDGE

30/3/2022