

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**(LAND DIVISION)**

**IN THE DISTRICT REGISTRY OF MUSOMA**

**AT MUSOMA**

**Misc. LAND CASE APPEAL No. 78 OF 2021**

*(Arising from the District Land and Housing Tribunal for Mara at Musoma in Land Appeal No. 96 of 2020 & Originating from Iramba Ward Tribunal in Land Dispute No. 2 of 2020)*

**KAARE WILLIAM BULENGA ..... APPELLANT**

**Versus**

**MANYAMA MAKENE ..... RESPONDENT**

**JUDGMENT**

30.03.2022 & 30.03.2022

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

Mr. Kaare William Bulenga (the appellant) sued Mr. Manyama Makene (the respondent) at **Iramba Ward Tribunal** (the Ward Tribunal) in **Land Dispute No. 2 of 2020** (the case) for land which belongs to his deceased father, Mzee William Kaare. On 17<sup>th</sup> March 2020, the Ward Tribunal members convened a meeting to resolve the dispute. During the hearing of the case, the appellant stated that:

*Baada ya kustaafu nilirudi nyumbani na kwa kuwa nguvu kazi ilikuwa imeongezeka, tukaamua familia ya ndugu William Bulenga tulime mashamba yote. Tumelima miaka yote na mwaka huu ikajitokeza kuwa nimevamia shamba la ndugu Manyama Makene. **Sasa sijui nimevamia***

***shamba gani maana mimi ninajua kuwa nimelima  
shamba halali la Mzee William Kaare.***

(Emphasis supplied).

On the other hand, the respondent registered materials in the Ward Tribunal which display that: *Mimi ninajua kuwa baba yangu alikuwa ni mfugaji na lalamiko langu ni kwamba eneo la zizi ambalo baba yangu alilitumia toka mwaka 1974 kutoka maameni, akiwa na ng'ombe 115.* Following the materials registered by the parties in the case, it was vivid that the parties had no *locus standi* from the beginning of the dispute in the Ward Tribunal.

This court noting the contravention of the law in *locus standi* and precedents of this court in **Rujuna Shubi Balonzi v. Registered Trustees of Chama Cha Mapinduzi** [1996] TLR 2003 and **Mwita Magongo v. Manyama Magesa Ruwisa**, Misc. Land Case Appeal No. 68 of 2021 on the subject of *locus standi*, it invited the parties to cherish the right to be heard as enshrined article 13 (6) (a) of the **Constitution of the United Republic of Tanzania** [Cap. 2 R.E. 2002] and precedents in **Judge In Charge, High Court at Arusha & The Attorney General v. Nin Munuo Ng'uni** [2004] TLR 44 and **Mbeya-Rukwa Auto Parts & Transport Limited v. Jestina George Mwakyoma** [2003] TLR 251, to briefly submit on the issue of *locus standi* in the present appeal.

The parties, who appeared themselves without any legal representation, agreed that they registered materials which depict that the land in dispute belongs to their fathers. According to the appellant he is well aware of the fault and started to initiate legal proceedings at **Kenkombyo Primary Court** in Bunda District praying for a letter of administration of the estates of his deceased father, who had already expired. The respondent on his part stated that all evidences and witnesses who were called at the Ward Tribunal testified that the land belongs to his father since 1974 during **Operation Vijiji** hence he has the right to occupy and use the family land.


From the facts registered by the parties it is obvious that the parties are disputing on a land which belongs to their father without letters of administration hence the proceedings of the Ward Tribunal in the case from the first day of hearing to today are at fault. This court is entrusted with additional role of cherishing proper application of laws and interpretation of precedents emanated in our courts of record (see: see: section 42 & 43 of the **Land Disputes Courts Act** [Cap. 216 R.E. 2019] (Act) and precedents in **Mbasa Chikaka v. Nosi Waryoba**, Misc. Land Case Appeal No. 86 of 2021; **Hassan Rashidi Kingazi & Another v. Halmashauri ya Kijiji Cha Viti**, Land Case Appeal No. 12 of 2021; and **Diamond Trust Bank Tanzania Ltd v. Idrisa Shehe Mohamed**, Civil Appeal No. 262 of 2017). This court cannot remain

silent when there are vivid violations of the laws and precedents of this court and Court of Appeal.

Having noted the fault and position of the law in the cited precedents, I have no options rather than setting aside proceedings and quash any orders and decisions emanated from the nullity proceedings of the two lower tribunals for want of proper application of the law regulating *locus standi* and administration of estates of the deceased persons. I award no cost in this appeal as the parties are lay persons and cherished legal procedures without any legal representation, and in any case the dispute was not resolved to the finality on merit to identify the wrong doer. Any interested party in the disputed land may wish to initiate fresh and proper proceedings in a competent body entrusted with a mandate of resolving land disputes in accordance to the laws and practice regulating land matters.

Ordered accordingly.



  
F. H. Mtulya

**Judge**

30.3.2022

This judgment was delivered in chambers under the seal of this court in the presence of the appellant, Mr. Kaare William Bulega and the respondent, Mr. Manyama Makare.



F. H. Mtulya

**Judge**

30.3.2022