

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
(LAND DIVISION)**

**IN THE DISTRICT REGISTRY OF MUSOMA**

**AT MUSOMA**

**Misc. LAND APPLICATION No. 19 OF 2022**

*(Arising from the District Land and Housing Tribunal for Mara at Tarime in  
Land Application No. 17 of 2021)*

**GODLIVER RHOBI MANKO ..... APPLICANT**

***Versus***

- 1. DEBORA SERONGA WANGWE**
- 2. MANKO MWITA CHACHA**
- 3. STEPHEN KIJANGA**
- 4. MORIS OMONDI**
- 5. RAGITA MICHAEL**
- 6. YOHANA MAINGU**
- 7. ZABRON JORAM**
- 8. ABDURKAREEM ISMAIL**
- 9. MAHENDE**
- 10. LAURENT**
- 11. MUNIKO MERENGO**
- 12. CHARLES DANIEL**
- 13. MARWA MAHENDE**
- 14. KARORI MAGINGA**

**..... RESPONDENTS**

**RULING**

07.06.2022 & 07.06.2022

**Mtulya, J.:**

The present applicant, Godliver Rhobi Manko, has instructed Mr. Edison Philipo, learned counsel, to draft and register an application for enlargement of time to revise the proceedings of the **District Land and Housing Tribunal for Mara at Tarime** (the tribunal) in **Land Application No. 17 of 2021** (the application) out

of statutory time. The application was drafted and filed in this court's registry termed **Misc. Land Application No. 19 of 2022** by Mr. Philipo for the applicant. However, when the application was scheduled for hearing today morning, Mr. Dominic Jeremiah Chacha, learned counsel for Debora Seronga Wangwe (the first respondent), appeared and raised three (3) points of preliminary objection (the objection) challenging the competence of the application.

During consultations and discussions of the dual counsels, Mr. Philipo conceded the first point of objection contending that if the application is granted, the applicant will have nothing to prefer in this court. In his opinion the decision of the tribunal in application was already executed from the decision of the same rendered down on 17<sup>th</sup> September 2021 in **Misc. Land Application No. 142 of 2021**. Finally, Mr. Philipo prayed the application be struck out for want of competence without costs.

The first prayer of Mr. Philipo with regard to struck out order was received well and supported by Mr. Chacha. However, Mr. Chacha declined the second prayer on costs arguing that: first, he travelled all the way from Mwanza to Musoma to attend the present application; second, his client, the first respondent had travelled from Tarime District to this court in Musoma by use of

private vehicle; third, pressing costs to the applicant will be a lesson to those who abuse court processes; and finally, the practice of granting costs has been in place to follow the event, like the present application. In a brief rejoinder on costs Mr. Philipo contended that he has been a gentleman in conceding the point of law hence saved time and costs of this court and parties hence he cannot be condemned to costs.

I have perused the record of this application and found two (2) faults which move to the competence of the application, *viz*: first, the application was overtaken by event as the intended challenge to the application of the tribunal was already executed in **Misc. Land Application No. 142 of 2021**; and second, the applicant will have nothing to register in this court after a leave is granted to file the review. The reason is obvious that there is already in place a decision of this court in **Land Revision No. 8 of 2021** delivered on 8<sup>th</sup> March 2022 on the same subject concerning the same parties.

Having said so, and considering there is currently in place a precedent of the Court of Appeal in **Fatma Hussein Shariff v. Alikhan Abdallah & Three Others**, Civil Application No. 536/17 of 2017, on the same subject, I must state that the present application is misconceived and accordingly struck out for want of

competence. However, I decline to order costs as both learned minds acted as officers of this court in cherishing section 66 of the **Advocates Act** [Cap. 341 R.E. 2019] and section 3B (2) of the **Civil Procedure Act** [ Cap. 33 R.E. 2019]. They have been gentlemen in assisting this court to descend smoothly at justice of the parties and the practice must be encouraged by this court.

Ordered accordingly.



F. H. Mtulya

**Judge**

07.06.2022

This Ruling was delivered in chambers under the seal of this court in the presence of the second respondent, Deborah Seronga Wangwe and in the presence learned counsels Mr. Edison Philipo and Mr. Dominic Jeremiah Chacha.

F. H. Mtulya

**Judge**

07.06.2022