

**IN THE HIGH OF TANZANIA  
(IN THE SUB-REGISTRY OF MWANZA)**

**AT MWANZA**

**LAND APPEAL NO. 76 OF 2022**

*(Originating from Land Application No. 10 of 2010 at District Land and Housing  
Tribunal for Ukerewe)*

**JULIUS KWEBA.....1<sup>ST</sup> APPELLANT**

**MASUMBUKO KAKULU .....2<sup>ND</sup> APPELLANT**

**MAKAO HERMAN..... 3<sup>RD</sup> APPELLANT**

**VERSUS**

**THE REGISTERED TRUSTEES OF SEVENTH**

**DAY ADVENTIST CHURCH.....1<sup>ST</sup> RESPONDENT**

**UKEREWE DISTRICT COUNCIL.....2<sup>ND</sup> RESPONDENT**

**RULING**

*Date of Last Order: 13/03/2023*

*Date of Ruling: 17/03/2023*

**Kamana, J:**

The Appellants Julius Kweba, Masumbuko Kakulu and Makao Herman were amongst the nine Respondents in Land Application No. 10 of 2010 at District Land and Housing Tribunal (DLHT) for Ukerewe. The Applicant was the Registered Trustees of Seventh Day Adventist Church, now the first Respondent and the second Respondent Ukerewe District Council was among the nine Respondents.

Aggrieved by the decision of the DLHT, the trio preferred this appeal. However, the same was objected to by the first Respondent on the following grounds:

- 1. That, the appeal has been drawn contrary to the language of the Court.*
- 2. That, the appeal is incompetent for omitting necessary parties.*
- 3. That, the appeal is incompetent for not being accompanied by the decree.*

The preliminary objections were argued by way of written submissions.

Submitting in support of the first limb of the preliminary objections, Mr. Elias Hezron, learned Counsel for the Respondent contended that the language of the Court is English and not Kiswahili. The learned Counsel cited Rule 4(1)(a) and (b) of the Interpretation of Laws (Use of English Language in Court) (Circumstances and Conditions) Rules, 2022 (GN No. 66 of 2022) as providing English as the language of the Court. He emphasized that by virtue of the said Rule, pleadings are required to be filed in English with a corresponding Kiswahili version. In that case, Mr. Hezron was of the view that the instant appeal was supposed to be filed in English and not in Kiswahili. To buttress his

opinion, the learned Counsel cited the persuasive decisions of this Court in **Zaid Jumanne Zaid v. Pili Rajanu Abdallah**, Land Appeal No. 09 of 2022 and **Ibrahim Pius Kagansha and Another v. Bera Karumba and Another**, Land Appeal No. 8 of 2022.

In her reply, Ms. Stella Minja, learned Counsel for the Appellant submitted that the wording of Rule 4(1)(a) of the Interpretation of Laws (Use of English Language in Court) (Circumstances and Conditions) Rules, 2022 (GN No. 66 of 2022) suggests that a party has the option to file the pleadings in English if he is of the opinion that the proceedings in question fall within the circumstances warranting the use of English. Fortified by that provision, the learned Counsel contended that his clients were of the opinion that the proceedings of this appeal will be conducted in Kiswahili. In that case, they preferred their appeal in Kiswahili.

Ms. Minja contended further that the amendment of the Interpretation of Laws Act, Cap. 1 via Written Laws (Miscellaneous Amendments) Act, No.1 of 2021 states categorically that Kiswahili is a language of Courts and Tribunals. That being the position, the learned Counsel argued that the Respondents were not prejudiced by the act of the Appellants to prefer their appeal in Kiswahili.

For the purpose of this Ruling, I hasten to state that the language of the Court in Tanzania, as a matter of general application, is Kiswahili. This is provided under section 84A(1) of the Interpretation of Laws Act, Cap. 1. The section stipulates:

*'(1) Notwithstanding any other written law, the language of the courts, tribunals and other bodies charged with the duties of dispensing justice shall be Kiswahili.'*

However, considering the circumstances of this country, the Legislature provided an exception to the general rule. The provisions of subsection (2) of section 84A provide that English may be used when the interest of justice so requires. It reads:

*'(2) Without prejudice to subsection (1), courts, tribunals and other bodies charged with a duty of dispensing justice may, where the interests so require, use English language in the proceedings and decisions.'*

The provisions of subsection (5) of section 84A vests powers on the Chief Justice to make Rules for better carrying out of the provisions of section 84A(2), (3) and (4). In view of that the Chief Justice issued the Interpretation of Laws (Use of English Language in Court) (Circumstances and Conditions) Rules, 2022 (GN No. 66 of 2022). According to Rule 4(1), if the party who intends to initiate proceedings is

of the view that the proceedings are within the ambits of the circumstances which necessitate the use of English, such party is under the obligation to file the pleadings in that language with corresponding Kiswahili version. The Rule states:

*'(1) A party who intends to initiate proceedings which, in his opinion, falls under the circumstances where the proceedings and decision thereto are to be conducted in English language, such party shall-*

*(a) file his pleadings in English language with their corresponding translation in Kiswahili language;  
and*

*(b) .....'*

Circumstances in which proceedings and decisions thereto are to be conducted in the English language have been contemplated in Rule 3 of the Rules which provides:

*'3. Subject to the provisions of subsection (2) of section 84A of the Act, pleadings, proceedings or decisions may be in English language where it relates to matters stipulated in the Schedule to these Rules.'*

The Schedule to the Rules lists the circumstances as follows:

*'CIRCUMSTANCES AND CONDITIONS FOR THE USE OF  
ENGLISH LANGUAGE IN COURTS:*

*(a) either of the parties or their representatives to the  
proceedings are not Swahili speakers;*

*(b) the matter is about an international investments  
dispute;*

*(c) the matter is about a foreign trade or business;*

*(d) the matter involves a finance and monetary affairs;*

*(e) the matter is about tax and taxation;*

*(f) the matter relates to International, Regional or Sub  
Regional affairs;*

*(g) the law governing the matter subject of litigation,  
and the practice and procedure thereto are not available  
in Kiswahili language;*

*(h) matters of science and technology are involved; or*

*(i) for any other reason the interest of justice demands  
so.'*

Deducing from the above cited provisions of the law, as rightly  
contended by Ms. Minja, it is clear that the language of the Court is  
Kiswahili. However, exceptions to that general application of the

Kiswahili language in Courts are stated in section 84A(2) and Rule 3 and the Schedule.

In my opinion, I shake hands with the learned Counsel for the first Respondent though for different reasons. While it is true that the appeal before this Court was supposed to be in English, I do not agree with his interpretation of Rule 4 of the Rules. I further do not agree with the interpretation of such Rule by the learned Counsel for the Appellants. Rule 4 applies in the circumstances that necessitate the use of English in place of Kiswahili. It does not state that the pleadings in all circumstances must be filed in English with a translated version of Kiswahili. Besides, it does not provide that a party has the option of using Kiswahili if he believes that the same should be used in filing pleadings.

To conclude, I find the first ground meritorious. The appeal at hand is about a land dispute. Land laws are in the English language. I am alive that there are Kiswahili versions of Land laws but the same do not comprise amendments that were effected in the English language from the year 1999 to date. In that case, the appeal at hand falls within paragraph (g) of the Schedule to the Rules. In other words, the appeal in question was supposed to be filed in the English language. Having found that, I will not delve into other limbs of preliminary objections.

The appeal is struck out with leave to refile within fourteen days from the date of this Ruling. It is ordered.

Right to appeal explained.

**DATED** at **MWANZA** this 17<sup>th</sup> March, 2023.



A handwritten signature in blue ink, appearing to read "KS Kamana". The signature is fluid and stylized, with a large initial "K" and a long, sweeping underline.

**KS KAMANA**

**JUDGE**