

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE SUB-REGISTRY OF MANYARA

AT BABATI

LAND APPEAL NO. 22 OF 2022

(Originating from Land Application No. 73 of 2015 from the District Land and
Housing Tribunal for Babati)

JUMA YUSUPH.....APPELLANT

VERSUS

MAIMUNA SALIMU.....RESPONDENT

RULING

7/3/2023 & 4/4/2023

BARTHY, J.

This is an appeal against the judgment and decree of district land and housing tribunal for Babati (to be referred as the trial tribunal) on Land Application No. 73 of 2015 delivered on 28/11/2022. The respondent herein sued the appellant and 5 others for trespass over five acres farm land (suit land) she claimed to have inherited from her mother.

The trial tribunal decided in favour of the respondent who was declared the lawful owner of the suit.

Distressed with the trial tribunal's decision, the appellant preferred the present appeal with the following grounds;

- 1. That, the trial tribunal erred in Law and fact for failure to interpret consider properly the evidence tendered by both parties during the trial of the matter at hand thus reached into erroneous decision.*
- 2. That, the trial tribunal erred in Law and fact by deciding the matter relying on the technicality contrary to the Law.*
- 3. That, the trial tribunal erred in Law and fact by deciding the matter relying on the technicality contrary to the law.*

The appellant therefore prayed this court to quash and set aside the decision of the trial tribunal.

On the date fixed for hearing, the respondent informed this court that his advocate was running late. For the interest of justice to allow the respondent with the right to representation, but also save the time, the court sought the matter be disposed of by way of written submissions.

The parties were ordered to submit their submissions according to the dates scheduled by the court. The appellant was to file his submission in chief on 14/3/2023, the respondent's rejoinder submission was to be filed on 28/3/2023. Then the matter was fixed for judgment on 4/4/2023.

However, the appellant did not file his submission in chief as scheduled, hence this court had to determine what should the court do on the

failure of the party to file the submission.

It should be observed that, court's orders are binding to the parties and needs to be obeyed. This will allow smooth operation of court's business process and operate in orderly manner. In the absence of orders, parties will not be guided and the result is chaos.

This position has been emphasized by this court in a couple of times, including in the case of **Olam Tanzania Limited v. Halawa Kwilabya**, DC Civil Appeal No. 17 of 1999, where the court among other things held that;

If orders made by courts are disregarded or if they are ignored, the system of justice will grind to a halt or it will be so chaotic that everyone will decide to do only that which is conversant to them.

The appellant failed to obey the order of the court to file his submission within the given time.

Failure to file the submission within time it is as good as failure to appear before the court to prosecute or defend the case. This is now the settled position stated in a number of cases including, **Godfrey Kimbe v. Peter Ngonyani**, Civil Appeal No. 41 of 2014, Court of Appeal of

Tanzania (unreported).

Since the appellant has failed to prosecute his case, the only remedy is to dismiss the appeal with costs.

It is so ordered.

Dated at Babati this 4th April 2023.




G.N.BARTHY,

JUDGE

4/4/2023.

COURT: Ruling delivered this 4th of April, 2023 in the presence of parties.

B.A.MPEPO,

DEPUTY REGISTRAR

4/4/2023.