THE UNITED REPUBLIC OF TANZANIA

JUDICIARY

IN THE HIGH COURT OF TANZANIA

(DISTRICT REGISTRY OF MBEYA)

AT MBEYA

MISCELLANEOUS CIVIL CAUSE NO. 02 OF 2023

IN THE MATTER OF AN APPLICATION FOR ORDERS OF MANDAMUS AND CERTIORARI;

AND

IN THE MATTER OF THE DECISION OF THE MINISTER FOR LANDS, HOUSING AND HUMAN SETTLEMENT DEVELOPMENTS DATED 25TH OCTOBER 2022 AT MBARALI WITHIN MBEYA REGION:

1. HENERI MWADUPA.....1ST APPLICANT
2. CHARLES MWANYIMBWA.....2ND APPLICANT
3. JOSEPHAT EDSON.....3RD APPLICANT

VERSUS

1. HON. MINISTER FOR LANDS, HOUSING AND HUMAN SETTLEMENT DEVELOPMENTS.....1ST RESPONDENT
2. PERMANENT SECRETARY MINISTRY FOR LANDS, HOUSING AND HUMAN SETTLEMENT DEVELOPMENTS...2ND RESPONDENT
3. HON. ATTORNEY GENERAL .....3RD RESPONDENT

RULING

Date of Hearing: 29/03/2023
Date of Ruling : 07/08/2023

MONGELLA, J.

This is an application for prerogative orders for mandamus and certiorari against the decision of the 1st respondent rendered on 25.10.2022 at Mbarali, Mbeya. The 1st respondent had ordered the applicants and their families to be forcefully evacuated from Iyala, Msanga, Madundasi, Kilambo, Luhanga and Ukwavila village. The application has been preferred under Rule 8(1)(a), (b), (2) and (3) of the Law Reform (Fatal Accidents and Miscellaneous Provisions) (Judicial Review Procedure and Fees) Rules, 2014 following leave granted vide Miscellaneous Civil Cause No. 11 of 2022. The same is supported by a joint affidavit of the applicants and opposed by the respondents in their joint counter affidavit sworn by one, Geoffrey Anyabwile Mwaijobele, principal officer of the 2nd Respondent.

In their chamber summons, the applicants have requested for the following orders;

1. *That, through the writs of Mandamus and Certiorari, this Honourable court be pleased to call upon and quash the decision of the first respondent, the Hon. Minister for Land, Housing and Human Settlement Developments made on 25.20.2022 whereby the Minister ordered for immediate evacuation and deregistration of 5 villages of Luhanga, Madundasi, Msanga, Iyala, Kalambo and 47 hamlets within Mbeya Region so as to allow expansion of the Ruaha National Park boundaries for which no any prior notice or right to be heard was given to villagers residing in the mentioned villages.*

2. *Costs of the application be borne by respondents*

3. *Any other relief the court may deem just and equitable to grant.*

Both parties were represented; the applicants by Mr. Faraji Mangula and Ms. Neema Siwingwa, learned advocates and the respondents by Mr. Joseph Tibaijuka, learned state attorney.

The background of this application as drawn from the applicant's affidavit and their statement is that: the applicants herein were allocated un-surveyed plots of land in Ukwavila and Iyala hamlets for farming and pastoral activities and resided therein while performing such activities for over 20 years. On 25.10.2022, the 1st respondent in company of other ministers while visiting Ruaha River, at Mbazi area in Mwanavala Village, made an open statement in a public gathering to the effect that five villages to wit, Luhanga, Madundasi, Msanga, Iyala and Kalambo and 47 Hamlets therein were to be deregistered to allow the expansion of Ruaha National Park, hence all residents in the said areas were to evacuate immediately. That currently, government officials are forcefully evacuating the residents including the applicants without prior notice nor any compensation being awarded to them. The particulars of unfairness, irrationality and bias on the part of the 1st respondent are advanced as follows:

a. The 1st respondent's decision is unfair and biased because it unreasonably denied the applicants an opportunity to respond/be heard as far as the eviction order issued prior.

b. That the 1st respondent failed to issue a reasonable notice to the applicants to vacate the areas the village has allocated as required by the law.

c. The 1st respondent failed to afford the applicants with an opportunity to be compensated for the developments they have done on their lands which they had been allocated by the village.

d. The 1st respondent failed to involve and communicate to the villagers on the evacuation process it intended in regard to the expansion of the Ruaha National Park.

On the other hand, the respondents contested the applicants' prayers. Their averments as drawn from their counter affidavit and statement are that, there have not been any evacuations or evictions of villagers in the mentioned villages, but only an evaluation process. More so, they argue that the same was in line with the government plan to assess the boundaries of the Ruaha National Park as per **G.N. No. 28 of 2008**.

Submitting for the applicants, Mr. Mangula briefly narrated that the applicants are Tanzanian residents residing in Ukwavila and Iyala villages for over 20 years. They were allocated unsurveyed land for residence and agricultural activities and so they do not own titles or documents signifying their ownership. He claimed that the 1st applicant has 34 acres; the 2nd, has 50 acres at Ukwavila Village and; the 3rd, has 45 acres at Iyala Village. That, one applicant from Ukwavila village has built a house and has farms in the area where the new boundary crosses.

That, on 25.10.2022, the 1st respondent, while at a public meeting in Mbarali, explained that the government had a plan to expand the boundaries of Ruaha National Park thus 5 villages being; Ruhanga,

Madundasi, Msanga, Iyala and Kalambo shall be deregistered at 100% and 47 hamlets shall be affected. These hamlets were not specifically mentioned though they were to be partly affected and they are not part of the 5 villages. She then ordered the villagers to evacuate and the villages to be deregistered. The same was also published in the website of the Ministry of Lands, Housing and Human settlement Developments. The information was reported by one Munir Shemweta allegedly from the Ministry. That, thereafter, Government officials begun setting boundaries and ordering villagers to evacuate.

Mr. Mangula was of the view that the applicants were not granted the right to be heard as the 1st respondent just gave a statement to the villagers without according them the right to speak. That the villagers were also not given reasonable notice to vacate the village nor compensated for the unexhausted improvements made on the land and it was not stated where they would go after the evacuation.

He further argued that there are contradicting statements on the issue. Explaining the assertion, he stated that on 15.01.2019, the State House issued a press statement whereby the President of the United Republic of Tanzania prohibited deregistration of villages sharing boundaries with National Parks and also stated that the government should give villagers areas without trees but have fertile soils and retain areas with trees for national parks or conservation due to the increase in population which has caused increase in demand for land, but the same was not done.

As to ownership, he contended that the lands were un-surveyed. He averred that G.N. No. 28 of 2008 expanded boundaries of the Ruaha National Park and villagers were reallocated to other areas and there

had been no formal allocation of the reallocated areas by registration, but they have been residing in the area for more than 20 years running before the registration of the villages. He further argued that the 1st respondent failed to explain on any compensation plan for improvement made as required under Article 24 of the Constitution.

Mr. Mangula supported his prayers with ***Cheavo Juma Mshana vs Trustees of Tanzania National Parks and 2 Others***, Misc. Civil Cause No. 9 of 2021 HC (Unreported) and ***E. 933 CPL Philimatus Fredrick vs Inspector General of Police and Another***, Misc. Civil Cause No. 3 of 2019 (HC, unreported) and finally asked this court to allow this application and compel the 1st respondent to adhere to legal procedures by issuing reasonable notice; granting applicants the right to be heard and explaining to them how they shall be compensated and re-allocated.

In reply, Mr. Tibaijuka, while adopting the counter affidavit and joint statement of the respondents stated. that all National Parks are established by the **National Parks Act, Cap 282 R.E. 2009** and the correct boundaries are issued under subsidiary legislations. He said that initially the boundaries of Ruaha National Park were issued vide **G.N. No. 464 of 1964** and later vide **G.N. No. 28 of 2008**, however the National Parks Act prohibits all human activities in national Park areas.

Making reference to annexure "Haki 2" in the applicants' application, Mr. Tibaijuka admitted being true that the President wanted the Ministry of Tourism and Natural Resources to reconsider marking boundaries between human settlements and national parks and invoke wisdom in putting beacons so as not to evacuate citizens from areas where there

is no need to. He expounded that it meant that boundaries of national parks should first be set by beacons and then assessment of the areas be done to see whether the same would remain as national parks or allow human settlements and activities but as concluded by the president, the same does not permit citizens to invade national Parks areas.

He also Interpreted annexure "Haki 3" as a continuation of directives of the President to the effect that responsible ministers, under supervision of the Minister for Lands, after visiting areas in Mbarali District which is part of Ruaha National Park boundaries to order the villages and hamlets that were in the National Park to give way to expansion of Ruaha National Park. The annexure also stated that the area is a wetland and is important in preservation of the environment and water resources and for Ruaha River, therefore it was necessary to protect the same by evicting invaders including the applicants who were within boundaries set under **G.N. No. 28 of 2008.**

Mr. Tibaijuka explained that currently, as seen in annexure "S.N 2", no one is being evicted but rather, there is determination of boundaries as provided in G.N. No. 28 of 2008. He contended that if the government takes land, the available remedy shall be compensation because land is taken for public interest and what the applicants ought to have sought was compensation and nothing else. He added that the applicants have been required to cooperate in the evaluation process as seen in page 2 of annexture "SG 2".

With regard to judicial review, the counsel averred that **Section 17 of Cap 310 R.E. 2019** gives power to the High Court to conduct Judicial Review and make orders of Certiorari, Mandamus and Prohibition. He cited the case of ***Sanai Murumbe and Others vs Muhere Chacha*** [1990] TLR 54, where the Court of Appeal of Tanzania listed grounds for judicial review which are; illegality, procedural impropriety, irrationality and proportionality. However, he said, in this application, the counsel for the applicants has failed to explain or state which order this court should give between mandamus which is to compel certain administrative body to perform certain act or certiorari for the court to remove or expunge proceedings of administrative organ, body or person with administrative powers.

He averred that on certiorari, the counsel for the applicant prayed for the court to quash the decision of the Minister. He contended that illegality as defined in ***Sanai Murumbe*** (supra) and ***Lausa Alfan Salum and 116 Others vs Minister for Lands, Housing and Urban Development and National Housing Corporation*** [1992] TLR 293; is failure to follow the law and lack of jurisdiction. He had the contention that the applicants' counsel failed to state which laws were not adhered to by the Minister for Land in issuing the statement on the government's plan to remove people who invaded the National Park or how the Minister lacked jurisdiction in supervising matters related to land.

Mr. Tibaijuka stated that the counsel for the applicants mentioned 3 things; unfairness, irrationality and bias. On irrationality, he argued that an irrational decision is one which lacks logic or is contrary to moral standard of a certain place and no reasonable person would make such decision. Regarding the Minister's decision, he had the stance that the

same, as found in annexure "Haki 3" was logical since the land was invaded rendering it fair for the invaders to be evacuated.

As to unfairness, he averred that the decision of the Minister was fair as seen in paragraph 6 of annexure "Haki 3." He stated that anyone who deserved compensation would be awarded the same depending on whether respective persons had been previously compensated or not in respect of **G.N. No. 28 of 2008**.

He stated that there had not been any expansion made to the Ruaha National Park as the process would involve village authorities for the land to be taken being village land. That, the same would require passing of a government notice which would declare the area a reserved land, but the process has not been done. He further averred that there had not been any bias shown to the applicants by the 1st or 2nd respondents. He saw the Minister's statement being fair and rational.

Mr. Tibaijuka further prayed that this court ignores the argument that the applicants were allocated un-surveyed land while **G.N. No. 28 of 2008** was operating at the time. That, there was no reason for them not to be formally allocated land which is outside the G.N. He reiterated the contents of paragraph 6 of the respondents' counter affidavit that the applicants have failed to prove ownership of the land they claimed to have been allocated. He made further reference to paragraph 2 and 4 of the applicants' affidavit that they have not clearly stated the villages they belong to and the location of the allocated land and that Ukwavila village is not mentioned in annexure "Haki 3" nor stated whether it falls within the 47 hamlets.

Mr. Tibaijuka further insisted that the case at hand has been brought before a wrong forum. He averred that the case of ***Cheavo*** (supra) is distinguishable as it relates to compounding of offences under TANAPA law, but the criteria invoked in the case of ***IGP*** (supra) were not met.

Regarding the right to be heard, he averred that the issue at hand is invasion of the National Park area and removal of invaders. Thus, if he is not satisfied, the applicants are supposed to go to court to establish ownership. He averred that what is going on currently is formalization and if one was not compensated in 2008 through the G.N., he shall fill necessary forms and be compensated if found entitled. That, at this point the applicants cannot say whether they were heard or not as it is unknown and not established whether they are legal owners to the claimed lands.

Conclusively, the counsel averred that the application is baseless for the applicants' failure to establish unfairness, irrationality and biasness. The applicants have also failed to show who is in possession of the land in Ukwavila which is not mentioned in "Haki 3" and how that person will be affected. He therefore prayed that this court determines whether a press release qualifies to be a proper decision that can be challenged by way of judicial review.

In rejoinder, Mr. Mangula vehemently contested the averments by the counsel for the respondents that the applicants are invaders in Ruaha National Park. He firmly argued that the applicants are villagers from registered villages. That, it was not disputed that the villages they hail from are registered and that the applicants have been in the said villages for 20 years without disturbance.

He further contested the counsel's averment that the area is a wetland and that it is fair and legal for the 1st respondent to issue the orders and that G.N. No. 28 of 2008 is currently being implemented. He contended that what the counsel means is that the implementation was made in 2022 while the fact is, after 2008 the government allowed villages to be registered and that is why in 2019 the President called for wisdom and transparency in the process as the government was involved in making citizens live in respective areas.

Mr. Mangula further argued that there are government infrastructures within the area and the same will be affected. He added that the villagers are legally in the area and therefore the decision to deregister the villages and remove the villagers without reasonable notice being issued amounted to denying them the right to be heard rendering them not in a position to claim compensation. Further, he contended that the application at hand has a time limit of 6 months and if time lapses it shall entail acceptance of the decision made even if it is oppressive.

He argued further that the applicants have prayed for the orders of certiorari and mandamus and what they want is for the Minister to adhere to legal procedures. That, as reflected in the applicants' joint affidavit, after the statement by the Minister, demarcations started and the applicants are being evicted. Referring to annexure "SN.2", he argued that the DAS directions on 23.12.2022, at paragraph six of the letter, shows that farming activities have been allowed in some parts and prohibited in other parts. He had the view that this situation indicates that there are new boundaries as explained in annexure SG 2.

He further stated that the 2008 G.N. does not include the currently affected villages. He referred to annexure "Haki 3" saying that the same well explains that there are new boundaries created in the process of making a new G.N. and registration of villages is being cancelled. Further, that **G.N. No. 28 of 2008** shows previous boundaries and proposed new boundaries. That, the decision of the Minister was biased and the applicants were not afforded the right to be heard. He thus asked this court to intervene and compel the Minister to adhere to procedures and accord them the right to be heard.

I have dispassionately considered the submissions of both sides. Discerning from the submissions of the learned counsels for both sides, I find that there is a common ground that the boundaries of Ruaha National Park are in the process of being expanded which renders the villages and villagers surrounding the National Park to be affected by deregistration and evicted. As rightly argued by both counsels, for an application for orders of mandamus and certiorari to be successful at least one of the conditions listed in ***Sanai Murumbe and Others vs Muhere Chacha*** (supra) must be proved to exist. In this case, the Court stated:

> *"An order of certiorari is one issued by the High Court to quash the proceedings and the decision of a subordinate court or a tribunal or a public authority where, among others, there is no right of appeal. The High Court is entitled to investigate the proceedings of a lower court or tribunal or a public authority on any of the following grounds, apparent on the record.* ***One****, that the subordinate court or tribunal or public authority has taken into account matters which it ought not to have taken into account.* ***Two****, that the court or tribunal or public authority has not taken into account matters which it ought to have taken into*

*account. **Three**, lack or excess of jurisdiction by the lower court. **Four**, that the conclusion arrived at is so unreasonable that no reasonable authority could ever come to it. **Five,** rules of natural justice have been violated. **Six**, illegality of procedure or decision."*

There is as well plethora of authorities by the Court of Appeal on these conditions: See; ***Aidan Frederick Lwanga Eyakuze vs Commissioner General of Tanzania Immigration Service Department & Others***, Civil Appeal No. 13 of 2020 (CAT at DSM, at www.tanzlii.org); ***Ezekiah T. Olouch vs Permanent Secretary, President's Office, Public Service Management & Others***, Civil Appeal No. 140 of 2018 (CAT at DSM, at www.tanzlii.org) and; ***Rahel Mbuya vs Minister For Labour and Youth Development and Another*** , Civil Appeal No. 121 of 2005, (Cat at DSM, at www.tanzlii.org).

The applicants have sought for orders for mandamus and certiorari on questions of unfairness, irrationality and bias on the part of the 1st respondent with regard to the decision made on 25.10.2022. According to their pleadings and submissions, on 25.10.2022 the Minister for Lands announced that 5 villages being; Luhanga, Madundasi, Msanga, Iyala and Kalambo and 47 hamlets within 14 villages and a small part of Magwalisi Hamlet within Mbarali District and 3 hamlets within Lualaje village in Chunya district were to be evacuated for reservation of Ruaha National Park. These facts are reflected within annexure "Haki 3." The applicants, alleged that they hold an interest in the Minister's decision on the ground that they shall be affected by the same as they reside in un-surveyed lands within the said areas and the process of evacuation has been commenced. Further that, they have been denied the right to be heard and so they cannot inquire as to compensation over the

said evacuation and lean on the government's plan to re-allocate them.

The respondents' counsel on the other hand, does not deny the said announcement but rather argues against the *locus standi* of the applicants to the effect that they had not proved their ownership over the said areas. The respondents' counsel further stated that what is going on is the evaluation of the areas so as to ascertain the issue of compensation, hence the evacuation process had not begun. He also contended that Ukwavila village was not part of the announcement made on 25.10.2022.

It is undisputed that the 1st respondent made a public statement on 25.10.2022 informing the public on the decision of the government to vacate 5 villages and 47 hamlets. Now, the question lies on whether the order was appropriately made.

As evident in arguments advanced, the applicants' arguments are on two conditions; illegality of procedure and violations of rules of natural justice, to wit the right to be heard. Prior to addressing the two issues, I find it important to address as to what illegality implies. Illegality does not refer to the decision arrived but rather, the manner in which it was arrived at. This principle was well expounded by the Court of Appeal in the case of ***Charles Richard Kombe vs Kinondoni Munipal Council***, Civil Reference No. 13 of 2019 (CAT at DSM, at www.tanzlii.org) whereby citing the decision of Gujarat High Court in ***Chunila Dahyabhai v. Dharamshi Nanji and Others***, AIR 1969 Guj 213 (1969) GLR 734, in which the decision of the Supreme Court of India in AIR 1953 SC 23 was quoted, it was stated:

> *" The words illegality and material irregularity do not cover either errors of fact or law. They do not refer to the decision arrived at but to the manner in which it is reached. The errors contemplated relate to material defects of procedure and not errors of either law or fact after the formalities which the law prescribes have been complied with"*

There is no question that both Ukwavila Village and Ilaya village are registered. It is also not contested that all other villages mentioned to be involved with the alleged expansion of Ruaha National Park are also registered. It is also not contested that the 25.10.2022 announcement by the 1st respondent informed the public that the 5 villages will be de-registered and that 47 hamlets and some other parts of other villages and hamlets will be affected. The announcement informed the residents/villagers that they are supposed to vacate the area. On 23.12.2022 a letter from the office of the District Commissioner of Rujewa District (annexure SG-2) was sent to executive officers in 10 wards being; Imalilosongwe, Rujewa, Igava, Miyombweni, Madibira, Mapogoro, Itamboleo, Ut/Usangu, Luhanga and Mwatenga all within Mbarali district. The same involved instructions by the said District Commissioner on implementing his instructions pertaining Ruaha National Park areas allowed to be used in farming in 2022.

The respondents however, contested that Ukwavila village so mentioned in this application was not part of the listed villages that would be impacted with the said expansion of Ruaha National Park. They also contested that the applicants' interests would be affected at personal level.

It is well settled, as expressed under **Rule 4 of Law Reform (Fatal Accident and Miscellaneous Provisions) (Judicial Review Procedure and Fees) Rules, 2014**, that judicial review may be sought by a person whose interest has been affected or will be affected. The provision states:

> *"A person whose interests have been or believes will be adversely affected by any act or omission, proceeding or matter, may apply for judicial review."*

Given that all areas therein are villages and recognized as such, there were procedures that needed to be adhered to in transferring the village areas into part of Ruaha National Park Reserve. These procedures are well set under **Section 4 the Village Land Act** under which the process starts with the President issuing directives to the Minister for lands who will issue notice for transfer of village land to reserved land. Where the said village land has been allocated to villagers under customary right of occupancy or derivative right of occupancy, the same are to be notified of the expected transfer by the village council, thereafter the villagers are to be granted the opportunity to make their representations on the proposed transfer. The provision further provides that no transfer is to be effected until compensation has been made.

It is evident from the respondents' counsel's submission that such detailed procedures were not observed by the 1st respondent. The alleged proposed transfer relates to **G.N. No. 28 of 2008** whereby there were proposed boundaries of the Ruaha National Park. Further, the respective areas were allegedly allocated to villagers including the

applicants herein. This suffices to show that there was material procedural irregularity on the part of the 1st respondent and her agents.

As to the rule of natural justice, it is well known that the same is not only a principle under the common law, but also enshrined in our Constitution and includes the right to be heard. In ***Mbeya - Rukwa Autoparts and Transport Ltd v. Jestina George Mwakyoma*** [2003] T.L.R. 251 the Court of Appeal emphasized that:

> *"In this country, natural justice is not merely a principle of common law; it has become a fundamental constitutional right. Article 13 (6) (a) includes the right to be heard among the attributes of equality before the law, and declares in part:*
>
> *(a) Wakati haki na wajibu wa mtu yeyote vinahitaji kufanyiwa uamuzi wa Mahakama au chombo kinginecho kinachohusika, basi mtu huyo atakuwa na haki ya kupewa fursa ya kusikilizwa kwa ukamilifu ..."*

If the 1st respondent had taken the trouble to observe the requirement of the law as to transfer what was a village land into reserve land, the applicants would have been accorded the right to be heard on the proposed transfer and all other matters pertaining the entire process. This was evidently not done, neither were parties accorded the right to question the 1st respondent or at least make inquiries on the announcement she had made. As such, they were denied their fundamental right to be heard.

As pointed out earlier, the applicants as well prayed for an order of mandamus to have the 1st respondent be compelled to adhere to

procedures, especially on natural justice before they are evacuated from their lands. An order for mandamus is sought in order to compel or command performance of a duty owed to a lower court, tribunal, body or officer. In ***John Mwombeki Byombalirwa vs. The Regional Commissioner and Regional Police Commander, Bukoba*** [1987] TLR 73 this court discussed conditions that ought to be proved for an order of mandamus to be issued. The court stated:

> *"From the foregoing discussion, it has been said there are few conditions to be proved in order for an order of mandamus to be issued. These are: -*
> 1. *The applicant must have demanded performance and the respondents must have refused to perform.*
> 2. *The respondents as public officers must have a public duty to perform imposed on them by statute or any other law but it should not be a duty owed solely to the state but should be a duty owed as well to the individual citizen.*
> 3. *The public duty imposed should be of an imperative nature and not a discretionary one.*
> 4. *The applicant must have a locus standi: that is, he must have sufficient interest in the matter he is applying for.*
> 5. *There should be no other appropriate remedy available to the applicant."*

As I have reasoned, the 1st respondent had a duty under the **Village Land Act** to follow necessary procedures to ensure a proper transfer of the land but she did not adhere to the same. The 2nd and 3rd respondents who are responsible to advise and assist the 1st respondent were also of no help to her. Given the nature of the statement made by the 1st respondent and that the respondents had begun the implementation of the said directive which meant that the applicants did not have room to address them; and any attempts to reach them

would have proved futile and endangered their access to this court within six months, via Judicial review; this suffices to show that the 1st, 2nd, 3rd and 5th conditions were met.

With regard to the applicants' interest in this matter, the respondent's counsel contested that Ukwavila village so mentioned in this application was not part of the listed villages to be impacted by the said expansion of Ruaha National Park. He further contested that the applicants' interests would not be personally affected.

It Is well settled as expressed under **Rule 4 of Law Reform (Fatal Accident and Miscellaneous Provisions) (Judicial Review Procedure and Fees) Rules, 2014**, that judicial review may be sought by a person whose interest has been affected or he or she will be affected. The applicant's herein have filed this application claiming that their interests have been trespassed. The respondent's counsel asserted that the applicants have failed to prove that their interests have been trespassed because they have failed to prove their ownership of land within the said areas. The applicants have advanced reasonable grounds as to why they do not possess any titles over the alleged plots of land. That they were allocated the land by the village authorities and had been in use of the said lands for over 20 years. These alleged facts were not tangibly challenged by the respondents other than asserting merely that the applicants failed for prove ownership of the claimed land. In the premises, I am therefore inclined to side with the applicants on this issue, that they have sufficiently proved that they have an interest in claimed lands in Ukwavila and Iyala villages.

The respondents challenged that Ukwavila village was not mentioned in the statement made on 25.10.2022. Having gone through the arguments advanced, as well as annexure "Haki3," I am of view that Ukwavila village was not part of the process, hence ought not to have been included in this application. As to that end, the 1st and 2nd applicants' interests have been misplaced considering that the order being challenged was not issued against Ukwavilla village in which they hold their interests. In the premises, the Orders to be made herein, in this Ruling, shall therefore be in relation to the villages/areas mentioned in the directive issued on 25.10.2022, specifically, Iyala village.

Having observed as hereinabove, I find the 3rd applicant has advanced reasonable grounds to award the orders of mandamus and certiorari in relation to the area mentioned in the directive issued on 25.10.2022, that is, Iyala village. I therefore allow the application for certiorari and mandamus with respect to the 3rd applicant. The directives and or orders made in the statement issued by the 1st respondent on 25.10.2022 with respect to Iyala village and particularly affecting the interests of the 3rd applicant, are hereby quashed. The 1st respondent is ordered to first comply with legal procedures in implementation of the government plan as issued in the statement made on 25.10.2022 by according the 3rd applicant the chance to make representations before any decisions are carried out against him. Considering that the applicant's claims have not succeed in all the claimed villages, I make no orders as to costs. It is so ordered.

Dated at Mbeya this 07th day of August 2023.

Dmgella.

L. M. MONGELLA

JUDGE

THE HIGH COURT OF TANZANIA