

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE SUB-REGISTRY OF MANYARA

AT BABATI

MISC. LAND APPLICATION NO. 47 OF 2023

(Arising from Land Appeal No. 16 of 2023 dated 13th June 2023, Hon.
Kahyoza, J.)

KATARINA PAULO APPLICANT

VERSUS

YONA OYE.....RESPONDENT

Date of last order: 06/09/2023

Date of Ruling: 30/10/2023

RULING

MAGOIGA, J.

The applicant aggrieved with the decision of this court in Land Appeal No. 16 of 2023 intends to appeal to the Court of Appeal. She, thus, preferred the instant application under section 47(2) (3) of the Land Disputes Courts Act [CAP 216 RE 2019], (the Act), seeking for the following reliefs namely;

- 1. Leave to appeal to the Court of Appeal of Tanzania be granted against the whole of the judgment Land Appeal No. 16 of 2023 of the High Court Tanzania by Kahyoza, J*



at Manyara dated 13th June 2023 in exercise of its appellate jurisdiction from Land Application No. 6 of 2022 of the District Land and Housing Tribunal for Mbulu at Dongobesh.

- 2. Certification that there is a point of law to be determined by the Court of Appeal of Tanzania from the judgment Land Appeal No. 16 of 2023 in the exercise of its appellate jurisdiction from Land Application No. 6 of 2022 of the District Land and Housing Tribunal for Mbulu at Dongobesh coming from Land complaint No. 7 of 2022 Masieda Ward Tribunal at Mbulu.*
- 3. As the applicant is being assisted with legal aid, an order that each party bears its own costs.*

The application is being supported by an affidavit sworn by the applicant herself. On the other hand, the respondent lodged counter affidavit to contest the application.

Following the transfer of Hon. Barthly, J. to Dar es Salaam and following my



own transfer to this sub registry, same was re-assigned to me for its determination.

It is on record that this court on 6/9/2023 ordered the instant application be disposed of by way of written submissions. The applicant was required to file her submissions on or before 21/9/2023, reply by the respondent ought to have been filed on or before 6/10/2023 and rejoinder, if any, should have been filed on or before 13/10/2023.

The applicant filed her submissions but a close look at the applicant's submissions in support of the application, she raised and argued on grounds of appeal which were essentially determined by this court in Land Appeal No. 16 of 2023, the decision which the applicant intends to challenge on appeal.

Hence, no doubt, the applicant filed submissions which are not related to the instant application. It follows therefore that the applicant defied court's order therefore it is the same as she had not submitted anything in relation to the instant application. In the case of **Shaban Amuri Sudi (the administrator of the estate of the late Amuri Sudi v Kazumari Hamis Mpala** Land Application No. 30 of 2019 (unreported) in which this court pointed out that;

Court orders must be respected, obeyed and complied with



religiously. Likewise, court proceedings are controlled by the presiding judge or magistrate, parties cannot decide to do contrary to the court order. Tolerating them will amount to voluntary invitation to judicial chaos, disrespect and injustice.

Since the applicant disobeyed the court's orders, it amounts to failure to submit in support of the instant application. It is settled law that failure to file written submission in support of any matter, amounts to failure to appear on the date the matter is fixed for hearing. The remedy is to have the matter dismissed for want of prosecution.

Consequently, the application is dismissed for want of prosecution. In the circumstance, I order that each party should bear its own costs.

Order accordingly.

Dated at Babati this 30th day of October, 2023



A handwritten signature in blue ink, consisting of a series of vertical strokes followed by a horizontal line and a small flourish.

S. M. MAGOIGA

JUDGE

30/10/2023