

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(DODOMA DISTRICT REGISTRY)

AT DODOMA

MISC. LAND APPLICATION No. 58 OF 2022

(Arising from the Judgement of the High Court of Tanzania at Dodoma before Hon. Mansoor, J. dated 28th June, 2019 in Land Appeal No.04 of 2017, Original decision of the District Land and Housing Tribunal for Kondoa at Konda in Land Application No.07 of 2015)

SHAIBU SAIDI MAINGU (Administrator of the Estates of the

Late Said Maingu)APPLICANT

VERSUS

TABU SALUM.....RESPONDENT

RULING

7/2/2023 & 21/2/2023

MASAJU, J.

The Applicant, Shaibu Said Maingu, is applying before this Court for leave to appeal to the Court of Appeal of the United Republic of Tanzania. The application is brought by way of Chamber Summons made under section 5 (1) (c) of the Appellate Jurisdiction Act, [Cap 141 R.E 2019], Rule 45 (a) of the Court of Appeal Rules of 2009 R.E 2019 and section 47(2) of the Land Disputes Courts Act, [Cap 216 R.E 2019].

In support of the application, the Applicant affirmed an Affidavit. The Respondent, Tabu Salum, defaulted to enter appearance in the Court despite that she was duly served with several summons which one among them involved the aid in service by the office of the Village Executive Officer (VEO). Hence, *ex-parte* hearing of the long pending application.

The Applicant intends to challenge by way of an appeal to the Court of Appeal of the United Republic of Tanzania the decision of this Court in Land Appeal Case No. 04 of 2017, which had varied the decision of the District Land and Housing Tribunal for Kondoa in the same matter.

When the application was heard in the Court on the 7th day of February, 2023 the Applicant was unrepresented. When called to argue the application, the Applicant, being unlearned in legal matters, simply prayed to adopt his chamber summons and the Affidavit which gives the background and reasons for his application to form his submissions in support of the Application in the Court. Lastly, he prayed his application be accordingly granted so that he can exercise his right of appeal.

The application was not contested by the Respondent who was aware of it. The Court is decidedly of the view that the Applicant's basic right to appeal should not be denied or concluded for his lack of legal knowledge in preparing and arguing the application for leave thereof.

Accordingly, leave to the Applicant to appeal to the Court of Appeal of the United Republic of Tanzania against the decision of the High Court of Dodoma in Land Appeal Case No. 04 of 2017 in terms of section 5(1) (c) of the Appellate Jurisdiction Act, [Cap 141 R.E 2019] and section 47(2) of the Land Disputes Courts Act, [Cap 216 R.E 2019] is hereby granted. The parties shall bear their own costs.




GEORGE. M. MASAJU

JUDGE

21/2/2023