

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE SUB-REGISTRY OF MANYARA
AT BABATI**

MISC. LAND APPLICATION NO. 71 OF 2023

(Arising from Land Appeal No. 1 of 2023, of High Court Manyara, arising from Land Appeal No. 114 of 2018 of District Land and Housing Tribunal for Babati, Original Land Case No. 33 of 2017 at Wareta Ward Tribunal)

ANGELA ERO.....APPLICANT

VERSUS

STEPHANO QWARSE.....RESPONDENT

RULING

15th & 15th January, 2024

Kahyoza, J.

This matter originated in the Ward Tribunal, where Stephano Qwarse sued Angela Ero. Angela Ero, the applicant emerged successful. Stephano Qwarse appealed to the District Land and Housing Tribunal and won the day. Angela Ero, the applicant appealed to this Court and lost the appeal. She intends to appeal to the Court of Appeal. She has approached this Court praying for leave to appeal.

After entertain doubt as to the propriate of the application, I invited the parties to address me on the competence of the application. The issue raised is a legal issue, to which I did not expect much from the parties. The applicant contended that the application was properly filed while the respondent argued that the same is not properly before the court.

Indisputably, the dispute was instituted in the Ward Tribunal in 2017 and decided. From the Ward Tribunal the matter went to the District Land and Housing Tribunal up to this Court. The applicant aggrieved by the decision of this Court intends to appeal to the Court of Appeal. Section 47 (3) of the Land Disputes Courts' Act, [Cap. 216 R. E. 2019] states in no uncertain terms that a person aggrieved by the decision of the High Court where the appeal originates from the Ward Tribunal should obtain a certificate from the High Court certifying that there is a point of law involved in the appeal. The applicant has applied for leave instead of applying for a certificate of point of law. It is for that reason, I find the application for leave to appeal incompetent.

Consequently, I struck out the application. Given the nature of this matter, I give no orders as to costs.

The applicant may file an application for a certificate on point of law, subject to the law of limitation period.

It is so ordered.



J. R. Kahyoza
Judge
15/01/2024

Court: Ruling delivered in the presence of the parties. B/C Fatina present.

J. R. Kahyoza
Judge
15/01/2024