

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

SUMBAWANGA DISTRICT REGISTRY

AT SUMBAWANGA

MISC. LAND APPLICATION NO. 27312 OF 2023

(Arising from the decision of High Court of Tanzania at Sumbawanga in Land Appeal No. 10 of 2023)

VENANCE SILILO KAPELE APPLICANT

VERSUS

JOHN LUCAS MSANGAZILA 1ST RESPONDENT

JUMA JEGI 2ND RESPONDENT

22/02/2024 & 22/02/2024

RULING

MWENEMPAZI, J.

In this application the applicant, is aggrieved by the judgement of this court (Hon. Mwenempazi, J.) delivered on the 20th September, 2023. Hence, he filed this application for leave to appeal to the Court of Appeal. The application is made under section 47(2) of the Land Disputes Courts Act, Cap. 216 R.E.2019

Recently, a law has been enacted, ***Legal Sector Law (Miscellaneous Amendments) Act, No. 11 Of 2023*** which came into effect on 1st

December, 2023. Section 10 of the said Act, amends section 5 of the ***Appellate jurisdiction Act, [Cap 141 R.E 2023]***, repeals section 5(1) by deleting it and substituting for it the following: -

"(1) in civil proceedings except where any other written law provides otherwise, an appeal shall lie to the court of appeal against every order or decree, including an ex-parte or preliminary decree made by the High Court, in the exercise of its original, appellate or revisional jurisdiction".

The changes featured in the quoted provision of law, have done away with the requirement of leave for one to appeal to the court of appeal against any decision of the high court, regardless of whether the impugned decision is an order, decree, and ex parte decree or a preliminary decree when exercising its original, appellate or revisional jurisdiction. In other words, obtaining leave has ceased to be a requirement for one to appeal to the court of appeal effectively from 1st December, 2023.

Since the changes have a bearing on procedure law, the applicability of changes has a retrospective effect as well. In case of ***Director of Public***

Prosecution (DPP) Vs. Jackson Sifael Mtares (Criminal Appeal No. 2 of 2018) [2018] TZCA 393 (7 September 2018) it was held that: -

"Procedural amendments to a law, in absence of anything contrary, are retrospective in the sense that they apply to all actions after the date they came into force even though the actions may have begun earlier or the claim on which the action

may be based occurred on the anterior date".

Based on the position, this application is overtaken by events and it is unnecessary step to be taken by a litigant. For that matter the application is struck out with no order as to costs.

It is ordered accordingly.

Dated and delivered this 22nd February, 2024.


T.M. MWENEMPAZI
JUDGE

Ruling delivered this 22nd February, 2024 in the presence of Ms. Neema Charles, Advocate for the applicant and the Respondents.




T.M. MWENEMPAZI
JUDGE
22/02/2024