

**IN THE HIGH COURT OF TANZANIA**

**AT MWANZA**

**(LAND DIVISION)**

**MISC. LAND APPEAL NO. 76 OF 2010**

**(Appeal from the Judgment of the District Land and Housing Tribunal for Mara at  
Musoma in Land Appeal No. 95/2009)**

**WILSON ONGONG'A.....APPELANT**

**VERSUS**

**TAFROZA GIMONGE.....RESPONDENT**

**JUDGEMENT**

**Latifa Mansoor, J.**

The Appellant claims that the Respondent trespassed into his land, demolished his building, and crops, and trees. He claims that in 1974, he was allocated this land measuring 70/85 footpaces, during the operation of villagelization. The Appellant states that he moved to another village in 1998 (mahameni) and went back to the land in dispute in 2004. He says at the disputed land he left his brother and his mother. In 2006, he found the Respondent cutting trees in this land, he took the matter to Zanaki Primary Court, Civil Case No. 15/2006, where he won and the Respondent was ordered to pay him Tshs 333,750 for destroying the trees. The Respondent appealed to the District Court in Civil Appeal No. 65/2006, and the District Court quashed the decision of the Primary Court stating that the matter was a land dispute and the Primary Court had no jurisdiction to entertain land disputes.

In 2009, the Appellant filed a claim before the Buhemba Ward Tribunal, and in the judgment of the Ward Tribunal it was held that the land in dispute belongs to the Respondent, and that the evidence given by the Village Land Committee before the Ward Tribunal confirmed that the land in dispute was given to a person known as Biroto. Biroto moved from the land and left the land to his mother in law namely Sabina Marwa. Sabina Marwa gave this land to the Respondent. Sabina Marwa is the mother in law of the Respondent, and she was buried in this land.

The Appellant further states that the land of Biroto is located on the northern side of this disputed land, it is still there, and the Respondent is also in occupation of Biroto's land. He said further that, between his land and Biroto's land there is a path in which cattle used to pass to a stream for water.

The Respondent further states that her mother in law and the Appellant's mother were neighbors as well as friends. In 1986, the Respondent's mother in law gave this land to the Appellant's mother to cultivate cassava; this is when the Appellant and his brother started claiming that this land belongs to them. The Respondent's mother in law asked for return of this land to her, the Appellants refused. She says that this land belongs to her.

The Appellant states that he was allocated this land by the Village Land Committee in 1974; however that same Village Land Committee testified before the Ward Tribunal that this land was allocated to the Respondent's mother in law since 1974. There is no evidence given by the Appellant to contradict the evidence given by

the Village Land Committee before the Trial Tribunal that this land was given to him by the Village Land Committee during vilaglization in 1974.

There is a hearsay word of mouth, which is not corroborated by any evidence that the Respondent's land is the land which was formerly owned by Biroto, there is however ample evidence before the Ward Tribunal, and when the District Land and Housing Tribunal visited the locus in quo that the land belongs to the Respondent.

The Appellant failed to prove the grounds of appeal. There is no evidence whatsoever adduced by the Appellant to warrant this Court to reverse the findings of the Ward Tribunal and that of the District Land and Housing Tribunal.

This appeal therefore fails, with costs to the Respondent.

*Appeal dismissed.*



**Latifa Mansoor**

**JUDGE**

**02 NOVEMBER 2012**