

IN THE HIGH COURT OF TANZANIA

(LAND DIVISION)

AT TANGA

LAND CASE APPEAL NO.14 OF 2013

*(From the Decision of the District Land and Housing Tribunal of Korogwe District at Korogwe in Land Case Appeal No. 82 of 2012 and Original Ward Tribunal of Mnazi in Application No. 25 of 2012)*

JUMA RAJABU .....APPELLANT

VERSUS

ATHUMANI IDDI .....RESPONDENT

JUDGMENT

Rugazia, J.

The appellant who appealed unsuccessfully to the District Land and Housing Tribunal henceforth the Tribunal, had instituted a suit before the Ward Tribunal claiming a piece of land measuring 5 acres. He lost the claim but since he believes he has a right over that piece of land, he has now come to this court. The appeal grounds are as follows:

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TANGA.

1. That both trial Tribunals erred in law and fact by granting the suit land to the Respondent herein under assumptions that the Respondent and his late mother cultivated the same for more than 10 years, without considering the fact of the law, that the Respondent and his late mother were invitees, and all the time they cultivated the suit land, they were care takers and cannot acquired title of the same (*sic*).

2. That both trial Tribunals erred in law and fact by upholding title of the suit land to the Respondent's mother, without considering, that the Respondent's mother was an invitee ex gratia of the Appellant's deceased father, and after the Appellant's father's death, the suit land, in law, has to return back to the estate of the Appellant's deceased father.

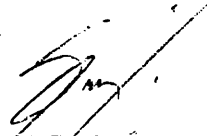
3. *That both trial Tribunals gròssly misdirected themselves in upholding that the suit land is an inheritance of the Respondent, while the suit land is a clan land of the family of MBONDEI in its original virginity, and the entire Respondent's family being not part of the MBODEI family, are not entitled to inherit the same.*

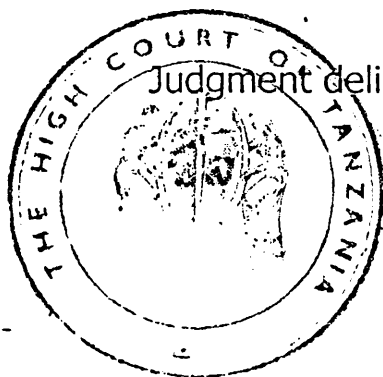
4. *That both trial Tribunals erred in law and fact for failing to properly evaluate the Appellant's evidence that he inherited the suit land from his father and the later inherited the same from the Appellant's ancestors (sic).*

According to his evidence before the Ward Tribunal, he leased the disputed land to the respondent's mother who was his sister. After her demise, he claimed to have it back but the respondent refused to part with it saying that his mother had


There cannot be any dispute that apart from a bare claim that the suit land was the appellant's and he leased it to his sister, there was not any evidence to back up that claim. The Tribunals below cannot therefore be faulted on their findings. It was upon the appellant to produce tangible evidence to establish his claim, a duty which he miserably failed to perform.

In the absence of any such evidence, I cannot find any ground upon which to upset the Tribunals' finding. It is on this basis that I proceed to find the appeal to have no merit and, consequently, dismiss it with costs.

  
**P. A. RUGAZIA, J.**  
**06/03/2014**



Judgment delivered. Both parties present.

  
**P. A. RUGAZIA, J.**  
**06/03/2014**