

**IN THE HIGH COURT OF TANZANIA
(LAND DIVISION)
AT DAR ES SALAAM**

MISC. LAND APPEAL NO. 70 OF 2013

*(From the Decision of the District Land and Housing Tribunal of Mkuranga District
at Mkuranga in Land Case Appeal No. 32 of 2012)*

AMROSS MAOKA.....APPELLANT

VERSUS

STEVEN CHACHA.....RESPONDENT

Date of the Last Order: 31/3/2014

Date of the Judgment: 30/5/2014

JUDGMENT

B.R. MUTUNGI, J.

The Appellant AMROSS MAOKA dully represented by Mr. Musa Kozya has raised three grounds of appeal as follows:-

1. That the District Land and Housing Tribunal for Mkuranga erred in fact and in law for upholding the decision of the ward tribunal which it had no jurisdiction to determine all of the dispute concerning land.

2. That the District Land and Housing Tribunal erred in law and in fact in not considering and recording the tendered documents and further disregarding the testimony of the Appellant herein in order to reach to a fair and just decision.

3. That, the District Land and Housing Tribunal for Mkuranga erred in law and in fact thereby concluding that the Appellant was invited to the land while it was not true.

In view of the above grounds of appeal, the Appellant prays for the following orders:-

- i. That, this honourable court to allow the appeal
- ii. That the decision and order of the lower tribunal be quashed and set aside.
- iii. Costs be provided
- iv. Any other reliefs, this honourable court may deem fit and just to grant.

In support of the appeal, the Appellant's counsel submitted that as far as the first grounds is concerned the ward tribunal had no pecuniary jurisdiction to try the matter

as the land was worth 15,000,000/=-, so it was wrong for the District Tribunal to uphold the ward tribunal's judgment.

On the second ground of appeal raised, the learned counsel submitted that the District Tribunal did not properly record the documentary evidence hence coming to a wrong judgment.

Lastly the learned counsel submitted that the court should find that the District Land and Housing Tribunal erred in that it found the Appellant as a person who had only been invited on the land but not the owner, a fact which is not to be found in evidence. All the evidence in the record point at nothing else but the Appellant being the owner of the land. In view of the above the court should be moved to uphold the appeal.

On the other side of the coin, the Defendant Steven Chacha (unrepresented) arguing as against the grounds of appeal filed submitted that, what he did was to stage his grievances to the ward tribunal, this is what matters to him. He was not in the position of knowing the pecuniary jurisdiction of the ward tribunal as he was a layman. All legal

matter's were to be dealt with by the ward tribunal. As regards the legal right over the said disputed property was granted in his favour as he possessed all the documents and had witnesses to prove the same.

I have gone through the grounds of appeal and that which has caught by eye is the first ground which touches on matters of jurisdiction. In other words the Appellant is saying the trial ward tribunal did not have the pecuniary jurisdiction to try the said matter.

At the hearing of the appeal before me the Respondent admitted that the suit land was worth about 15,000,000/= which indeed is above the pecuniary jurisdiction of ward tribunal (3,000,000/=). Perusing through the record of the ward tribunal I have also come across evidence to the effect that the said disputed land fetched 14,000,000/=. There is also documentary evidence to this effect. This is the sale agreement purported to be proving the sale on the part of the Respondent (the original Plaintiff/Claimant) titled **"UTHIBITISHO WA MAUZHANO SHAMBA"** dated 20/6/2011

which shows that the land was of 14 acres worth 14,000,000/=.

From the above it is thus very clear that the Respondent had filed his case in a wrong tribunal. As properly submitted by the Appellant's counsel the trial ward tribunal had no pecuniary jurisdiction to try the matter. Had the appellate tribunal considered this material fact would have found so. Having found that the first ground has merits I do not need to venture into the other grounds of appeal.

In view of the above I proceed to nullify and set aside the proceedings, Judgments, orders and decree of both the lower tribunals and the Respondent is advised to institute his case in a tribunal of competent jurisdiction. I further proceed in view of the findings of this court to state that the appeal is upheld to that extent. I make no orders for costs.

Right of appeal Explained.

B.R. MUTUNGI
JUDGE
30/5/2014

Read this day of 30/5/2014 in presence of the Respondent's son (Samwel Chacha) and in absence of Appellant dully notified.

B.R. MUTUNGI

JUDGE

30/5/2014