

IN THE HIGH COURT OF TANZANIA

(LAND DIVISION)

AT TANGA

MISCELLANEOUS LAND CASE APPEAL NO. 11 OF 2003

*(From the Decision of the District Land and Housing Tribunal of  
Korogwe District at Korogwe in Land case Appeal No. 132 of 2013  
and Original Ward Tribunal of Chekelei Ward )*

ABDI SAID.....APPLICANT  
(FOR AGRICULTURISTS)

VERSUS

ATHUMANI SAIDI HIZA .....RESPONDENT  
(FOR PASTORALISTS)

JUDGMENT

Rugazia, J.

The appellant who was aggrieved by the decision of the District Land and Housing Tribunal henceforth the Tribunal, filed an appeal to this court laying down two grounds of appeal. They are:

- 1. That, the learned Counsel erred (sic) in law and facts by quashed the decision of the Chekelei Ward Tribunal and allow the appeal in favor of the Respondent without considering*

*that the land in dispute is about six million (6,000,000/=) so the Chekelei Ward Tribunal has no jurisdiction to institute the matter (sic).*

*2. That, the Learned Counsel erred in law and facts by allowing the appeal in favor of the Respondent instead of nullifying the whole decision of the Chekelei Ward Tribunal and ordered the parties to institute a fresh case in the tribunal with a jurisdiction (sic).*

As it is, the main contention in this appeal is about whether the trial tribunal had jurisdiction to entertain the matter. The appellant submitted that it was raised as a ground of appeal in the appellate Tribunal but the said Tribunal did not deal with such a crucial point. It was contended that since the disputed area measures 42 acres and the market price per acre goes in the region of between Tshs.150,000/= and Tshs.300,000/=, the minimum for the land in dispute cannot be less than Tshs.6 million.

In response to this issue, the respondent contended that the issue of jurisdiction was not raised during the hearing of the appeal so the

appellate Chairman cannot be faulted for not making any decision on it. Before the hearing of the appeal, so contended the respondent, this ground of appeal was abandoned. The appellant argued that this was not true.


Indeed, the contention that the ground of appeal was abandoned cannot be true because it is not supported by the record of proceedings. Nevertheless, even if, say, it was not raised during the hearing of the appeal, the fact that it formed ground of appeal should have put the appellate Tribunal on its guard. The underlying reason for this is that the issue of jurisdiction is a crucial one which goes to the very root of any judicial proceeding. A point of law so crucial like this one can be raised at any time even at an appellate stage – it can even be raised by the court *suo motu* – see **Anwar Z. Mohamed vs Saidi Selemani Masuka** Civ. Ref. No. 18 of 1997 CAT – DSM. (unreported).

Since there is no dispute that the disputed land measures 42 acres and the price per acre estimated not to be below Tshs.150,000/= it is obvious that the Ward Tribunal was not clothed with the requisite

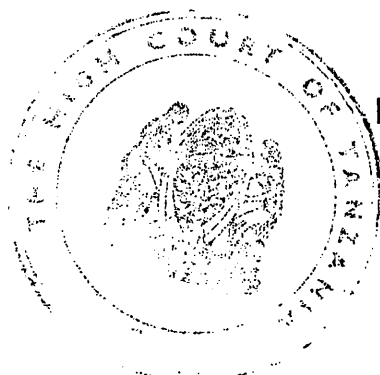
jurisdiction to try the matter. The pecuniary jurisdiction of Ward Tribunals in respect of civil matters relating to land is to be found under **section 15 of the Land Disputes Courts Act, Cap. 216, R.E. 2002**. The said jurisdiction is limited to the disputed land or property valued at three million shillings.


It is apparent, therefore, that the Ward Tribunal was not competent to try the matter. The appellate Tribunal equally erred to overlook/disregard such a crucial legal point.

On the basis of the foregoing, I find myself inclined to set aside the proceedings of the Ward Tribunal, which I now indeed do. They are quashed and set aside.

  
**P. A. RUGAZIA, J.**  
**19/02/2014**

Judgment delivered. Parties present.



  
**P. A. RUGAZIA, J.**  
**19/02/2014**