

**IN THE HIGH COURT OF TANZANIA  
AT DODOMA**

**Miscellaneous Land Case Appeal No. 75 of 2015**

*(From the Decision of the District Land and Housing Tribunal of the  
Singida District at Singida in Land Case Appeal No. 14 of 2015 and  
Original Ward Tribunal of Mtunduru Ward in Application No 54 of 2014)*

**HAMISI MATEMBE**

.....

**APPELLANT**

**VERSUS**

**JUMA SHABAN**

.....


**RESPONDENT**

**RULING**

22/08/2016 & 06/09/2016.

**SEHEL, J.**

This is a ruling on an issue raised by the Court, *suo moto*, at the hearing of the appeal. The issue raised and to which parties were invited to address the Court is the validity of the proceedings of Mtunduru Ward Tribunal. At every sitting of Mtunduru Ward Tribunal, the names of the Tribunal members are not indicated.

The appellant was of the view that the sitting was not legally valid since even the proceeding of locus in quo is not reflected. The appellant concluded by submitting that with all that the Ward Tribunal did not do justice to him. 

The respondent on the other hand did not submit on the issue raised rather he narrated how the Ward Tribunal came to the conclusion of declaring him the rightful owner of the disputed area.

I raised this issue because the law requires that in every sitting of the Ward Tribunal, half of its members should be present to form the quorum. This is clearly provided under Section 4 (3) of the Ward Tribunal Act, Cap. 206. It provides:

***"The quorum at a sitting of a Tribunal shall be one half of the total number of members."***

In the matter at hand, the dispute at Mtunduru Ward Tribunal was heard on different dates. It was heard on 17/09/2014; 24/09/2014; 01/10/2014; 19/11/2014; 26/11/2014 and the decision was delivered on 17/12/2014. On all these dates, the names of Tribunal members who sat and heard the dispute are not indicated in the proceedings. The names of eight members only appear on 17<sup>th</sup> December, 2014 on the judgment date. In all other dates the names of the members are not reflected. It is thus not certain as to whether the quorum was reached. The failure to indicate names of the Tribunal members in each sitting goes to the root of the validly constituted Tribunal. The question whether the quorum is reached or not, had to be determined first by any Tribunal before commencement of any hearing. The issue of quorum is so

fundamental. It is therefore risky and unsafe for this Court to assume that the quorum was reached while the records do not indicate so.

In view of such irregularity, I do hereby invoke my revisional power under Section 43 (1) (b) of the Land Disputes Courts Act, Cap. 216 by quashing the whole proceedings of Mtunduru Ward Tribunal and set aside its decision. Since the decision of the District Land and Housing Tribunal is found from the nullity decision then I proceed to quash its proceedings and set aside the decision. I further make an order of a retrial of the case before another set of a properly composed Tribunal. I make no order to costs because the mischief was occasioned by the Ward Tribunal. Ordered accordingly.

**DATED at Dodoma this 6<sup>th</sup> day of September, 2016.**



**B.M.A Sehel**

**JUDGE**

Ruling delivered in open court at Dodoma under my hand and seal of the court, this 6<sup>th</sup> day of September, 2016 in the presence of the appellant and respondent.



**B.M.A Sehel**

**JUDGE**

**6<sup>th</sup> September, 2016.**