

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

**LAND REVISION NO. 31 OF 2017**

*(Originating from the Decision of Kibaha District Land and Housing Tribunal in Land Application No 81 of 2007 and Land Application No. 80 of 2011)*

**OMARI ATHUMANI OMARI.....1<sup>ST</sup> APPLICANT**  
**ALOYCE THADEO.....2<sup>ND</sup> APPLICANT**  
**ALLI MTENGA .....3<sup>RD</sup> APPLICANT**

**VERSUS**

**RICHARD BAMBA SENI.....RESPONDENT**

**RULING**

*Date of the Ruling 30<sup>th</sup> August 2018*

**R.J. KEREFU, J**

The applicants herein have moved this Court under Section 36(1)(a)(b and (2) of the Land Disputes Courts Act, Cap. 216 [R.E.2002] praying for the following orders:-

- (a) That, this honourable Court be pleased to call for and examine the records of both proceedings of the Land Application No. 81 of 2007 and Land Application No. 80 of 2011 to satisfy itself to*

*the legality, correctness and propriety of the proceedings, orders and decision made thereon;*

*(b) The honourable Court be pleased to quash the said proceedings, decision and order made thereon, Land Application No. 80 of 2011 dated 20<sup>th</sup> October 2017 by Hon. Jalome Njiwa; and*

*(c) Costs of the application be provided for by the respondent.*

The Application is supported by an Affidavit deposed by the applicants themselves. The respondent was served with the Application and has filed a Counter Affidavit vehemently disputing the applicants' Application.

On the date set for the mention all parties appeared in their personal capacities, unrepresented. The Court noted that, the original record was yet to be availed to all parties to submit on the Application. However, after perusing the record of the Application the Court noted that, the Application is brought under the wrong provisions of the law and as such, requested the parties to address the court on that matter. All the parties, being laypersons were not able to address the Court on that legal point and they decided to leave the matter into the hands of the Court.

I have thus perused the record of the case and observed that, the applicant seeks to invoke the revisional powers of this Court to call for and examine the record of the Kibaha District Land and Housing Tribunal in respect of *Land Application No 81 of 2007 and Land Application No. 80 of 2011*. However, the cited provisions in the Chamber Summons do not cloth this Court with those powers. For the sake of clarity, Section 36(1)(a)(b and (2) of the Land Disputes Courts Act, (supra) provides that:-

*36 (1) A District Land and Housing Tribunal may call for and examine the record of any proceedings of the Ward Tribunal for the purpose of satisfying itself as to whether in such proceedings the tribunals decision has-*

- (a) not contravened any Act of the Parliament or subsidiary legislation;*
- (b) not conflicted with the rules of natural justice and whether the Tribunal has been properly constituted or has exceeded its jurisdiction and may revise any such proceedings.*

*(2) In the exercise of its revisional jurisdiction, a District Land and Housing Tribunal shall have all the powers conferred upon it in the exercise of its appellate jurisdiction.*

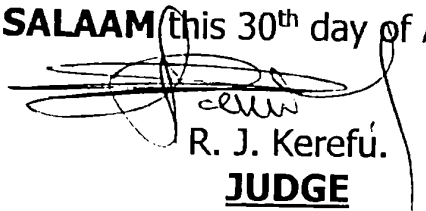
There is no doubt that the above provisions cited by the applicants are on the District Land and Housing Tribunal revisional powers as opposed to the High Court. It therefore go without saying that, the applicants have not cited enabling provisions to move this Court to grant prayers sought in the Chamber Summons.

It is a settled law in this Country that, an application brought under wrong provision(s) or non-citation of enabling provision(s) of the law is incompetent and ought to be struck out. There are numerous authorities to this effect and some of them include cases of **Edward Bachwa & 3 others v. Attorney General & others**, Civil Application No.128 OF 2008; **China Henan International Co-operation Group v. Salvand K. A. Rwegasira**, Civil Application (2006) TLR 220 and **Citibank Tanzania Limited v. Tanzania Telecommunication Co. Ltd & 4 Others**, Civil Application No.64 of 2009 Court of Appeal of Tanzania, to mention but a few.

Now, since the Application before this Court is incompetent, I do not see the need of keeping the same on record. The remedy for incompetent Application like this one is to be struck out. I therefore declare that the *Land Revision No. 31 of 2017* is hereby struck out. Since the matter was raised *suo motu* by the Court I make no order as to costs.

It is so ordered.

**DATED at DAR ES SALAAM** this 30<sup>th</sup> day of August 2018.



R. J. Kerefu.  
**JUDGE**  
30/08/2018