

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**(LAND DIVISION)**

**AT DAR ES SALAAM**

**MISC. LAND APPLICATION NO. 294 OF 2017**

*(Originated from Misc. Land Appeal No. 99 of 2016)*

**SAID SALIM ..... APPLICANT**

**VERSUS**

**RAMADHANI KENGIA ..... RESPONDENT**

**RULING**

**S.M. MAGHIMBI, J:**

The application beforehand was lodged under the provisions of Section 38(1) of the Land Disputes Court Act, Cap. 216 R.E 2002 whereby the applicant was seeking for extension of time within which he could appeal against the decision Temeke District Land And Housing Tribunal (The District Tribunal) in Land Appeal No. 99/2016, the same originating from the decision of the Sandali Ward Tribunal in Land Case No. 206/2004.

However, while I was going through the records of this application particularly the affidavit in support of the application and the Chamber Summons, I found that in the title of his Chamber Summons, the applicant seeks to appeal against the decision of the District Tribunal in Land Appeal No. 18/2015. However, in the first prayer of his Chamber Summons, the applicant prays for extension of time to appeal against the decision of The District Tribunal in Land Appeal No. 99/2016 while annexure S-1 in his affidavit is a decision of the District Tribunal in Appeal No. 18/2015 and not

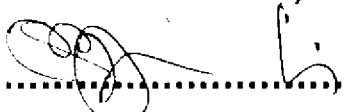
No. 99/2016. As if that is not enough, while in the title of the Chamber Summons the applicant seeks to appeal against the decision of District Tribunal in Appeal No. 18/2015 originating from the decision of Sandali Ward Tribunal in Land Case No. 206/2004, the judgment of the District Tribunal attached as S-1 to the affidavit says that the District Tribunal in Appeal No. 18/2015 arises from the decision of the Sandali Ward Tribunal in Land Case No. 206/2014 and not of 2004 as cited by the applicant.

The uncertainty in the records of the application necessitated me to determine this application as I am not sure as to which decision the applicant seeks to appeal from. If I am to rely on the first prayer of the Chamber Summons then the appeal sought to be challenged is No. 99/2016 while when I go to the affidavit which is the sworn statement in the affidavit, the applicant seeks to challenge the decision of the District Tribunal in Appeal No. 18/2015. I cannot be in any position to make assumptions or correct errors committed by the applicant. It is the applicant who has to be certain as to that which he wishes to move the court on. Until he is certain and settled in mind, he should not come to court corridors to confuse the court and expect the court to assume that which he wants.

That said, since the applicant is not certain as to that which he needs to move the court on, the application beforehand cannot be determined and is hereby struck out with costs.

***Application Struck Out***

Dated at Dar es Salaam this 12<sup>th</sup> day of September, 2019

  
.....  
**S.M. MAGHIMBI**  
**JUDGE**