

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

**MISC LAND APPLICATION NO. 369 OF 2020**

**ASIA ABDALLAH.....APPLICANT**

**VERSUS**

**YUSUPH ABDALLAH TULLA.....1<sup>ST</sup> RESPONDENT**

**RULING**

*Date of Last Order: 09.06.2021*

*Date of Ruling: 16.07.2021*

**OPIYO, J.**

Asia Abdallah, the applicant above named has moved this court under section 47 (1) and (2) of the Land Court Disputes Act together with section 95 of the Civil Procedure Code, Cap 33 R.E 2019 seeking for a leave and certificate on point of law so that she can present her appeal to the Court of Appeal, against the Judgment and Decree of the Hon. C.M Tengwa, RM with extended jurisdiction, delivered at the resident Magistrate Court of Dar Es Salaam at Kivukoni in Extended Misc. Land Appeal No. 30 of 2019. Her application is supported by her affidavit. The respondent also filed a counter affidavit opposing the instant application. The application was heard by way of written submissions, the applicant was both parties were unrepresented. The respondent did not file his written submissions; hence, the application was heard *ex-parte* against him.

However before venturing into the submissions of the applicant, I have noted some irregularities associated in the chamber summons which affect the root of the application itself. At this point I prefer to address the same as follows.

Firstly, in her chamber summons, the applicant appears to apply for a leave to appeal to the court of Appeal as well as seeking for a certificate on point of law so as to enable her present her appeal to the court of Appeal of Tanzania against the impugned decision here in above mentioned, vide Extended Misc. Land Appeal No. 30 of 2019. These are two separate applications and this court need to know the specific application which the applicant has intended to pursue. Looking at the chamber summons as it is, this court remains in a confusion as to what exactly the applicant is seeking before it. This fact however is a minor defect that could have been easily cured by amending the chamber summons.

However, the said defect is also associated with the other irregularity noted as well in the course of scrutinizing the chamber summons. The other defect in the chamber summons is the fact that, this application was preferred under section 47 (1) and (2) of the Land Disputes Courts Act, Cap 216 R.E 2019, which provide as follows; -

*47.-(1) A person who is aggrieved by the decision of the High Court in the exercise of its original jurisdiction may appeal to the Court of Appeal in accordance with the provisions of the Appellate Jurisdiction Act.*

section 47 (1) or (2) supra. In the end the application is struck out without costs.



A handwritten signature in blue ink, appearing to be "M.P. OPIYO", written over a horizontal line.

**M.P. OPIYO,**  
**JUDGE**  
**16/07/2021**