

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

MISC LAND APPLICATION NO. 418 OF 2021

SESARIA LEBULU.....APPLICANT

VERSUS

HELLEN BENJAMIN MOSHI.....RESPONDENT

Date of last order: 19/08/2022

Date of Riling: 25/08/2022

RULING.

I. ARUFANI, J

This court raised a point of law suo moto that the application was made under wrong law as it was made under section 5(1)(c) of the Appellate Jurisdiction Act, Cap 141 R.E 2019 and Rules 45 (a) and 47 of the Court of Appeal Rule 2009 as amended which does not confer this court jurisdiction to grant the applicant the order is seeking from the court.

The said defect was observed by the court when it was composing ruling of this matter and that prompted the court to require the parties and their counsel to address it about the observed defect. When the matter come today the counsel for the applicant has informed the court he has discovered the application is made under wrong laws as it was supposed to be made under Section 47(2) of the Land Disputes Court Act, Cap 216 R.E 2019 and not the law cited in the chamber summons.

Having discovered so and after conceding to the point of law raised by the court suo moto the counsel for the applicant prayed to withdraw the matter from the court with leave to refile subject to limitation of time. The respondent had not objected to the prayer made to the court by the counsel for the applicant.

That being the position of the matter, the court has found as it has not been properly moved the prayer made by the counsel for the applicant deserve to be granted. Therefore, the application is accordingly marked withdrawn with leave to refile subject to the law of limitation. Each party to bear his own costs. It is so ordered.

Dated at Dar es Salaam this 25th day of August, 2022



Court:

A handwritten signature in blue ink, appearing to read 'I. Arufani'.

I. Arufani

JUDGE

25/08/2022

Ruling delivered today 25th day of August, 2022 in the presence of Mr. Hekima Mwasipu, learned advocate for the applicant and in the presence of the respondent in person. Right of appeal to the Court of Appeal is fully explained.



A handwritten signature in blue ink, appearing to read 'I. Arufani'.

I. Arufani

JUDGE

25/08/2022