

**IN THE HIGH COURT OF TANZANIA**

**(LAND DIVISION)**

**AT DAR ES SALAAM**

**MISC. LAND APPLICATION NO. 482 OF 2022**

*(Arising from the Judgment of the High Court - Land Division at Dar es Salaam in Land Appeal No. 231 of 2021, originating from the District Land and Housing Tribunal in Land Application No. 176 of 2017)*

**ZAMANA JUMA ..... APPLICANT**

**VERSUS**

**SAWIDATI HASSAN HOZA ..... 1<sup>ST</sup> RESPONDENT**

**JUMANNE HOZA ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

*Date of last Order: 20.09.2022*

*Date of the Ruling: 21.09.2022*

**A.Z.MGEYEKWA, J**

This is an omnibus application, whereas the application is brought under Sections 47 (2) of the Land Disputes Courts Act, Cap. 216 [R.E 2019] and section 5 (1) (c) of the Appellate Jurisdiction Act, Cap. 141 [R.E 2019]. The applicant seeks to leave to appeal to the Court of Appeal of Tanzania to impugn the decision of this Court in Land Appeal No.231 of 2021 delivered

on 19<sup>th</sup> May, 2022. The application is supported by an affidavit deponed by Zamana Juma, the applicant. The respondents did not oppose the application.

When the matter was called for hearing before this court on 20<sup>th</sup> September, 2022, the applicant had the legal service of Ms. Beatrice Njau, learned counsel.

Ms. Beatrice Njau was brief and straight to the point. In her written submission Mr. Mshana urged this court to adopt the applicant's affidavit and form part of his submission. She submitted that t the applicant is applying for leave to appeal to the Court of Appeal of Tanzania because he was dissatisfied with the decision of this Court. The learned counsel for the applicant submitted that the matter is a fit case for this court to grant leave to appeal to the Court of Appeal of Tanzania to determine the issue whether the tribunal was correct to determine the matter in favour of the respondents without considering the fact that the applicant is the legal owner of the suit land.

Having heard the submissions of the learned counsel for the applicant in favour of the application, I will determine *whether the application is meritorious*. The issue for determination takes into account the settled position of the law to the effect that the grant of leave to appeal to the Court

of Appeal is not a matter of mere formality. A party intending to be allowed to appeal must demonstrate, with material sufficiency, that the intended appeal carries an arguable case that merits the attention of the Court of Appeal. Thus, a grant of leave is granted if *prima facie* grounds are meriting the attention of the Court of Appeal. In other words, there must be based on solid grounds which are weighty enough to engage the minds of the Court of Appeal. It is trite law that leaves to appeal to the Court of Appeal is granted if *prima facie* grounds are meriting the attention of the Court of Appeal as it was held in the case of **Sango Bay v Dresdner Bank A.G** [1971] EA 17, it was held that:-

*“ Leave to appeal will be granted where **prima facie** it appears that there are grounds which merit serious judicial attention and determination by a superior Court.”*

In the case of Harban Haji Mosi and Another v Omar Hilal Seif and Another, Civil Reference No. 19 of 1997 CAT (unreported), the Court of Appeal of Tanzania laid down the following principles:-

*“ Leave is grantable where the proposed appeal stands reasonable chances of success or where, but not necessarily the proceedings as a whole reveals such disturbing feature as to require the guidance of*

*the Court of Appeal. The purpose of the provision is therefore to spare the court the spectra of un meriting matters and to enable it to give adequate attention to cases of true public importance."*

Applying the above principle in the matter at hand; I find that the point in paragraph 7 of the applicant's affidavit attracts the attention of the Court of Appeal of Tanzania. Therefore, I allow the application and proceed to grant leave to the applicant to appeal to the Court of Appeal of Tanzania. No order as to the costs.

Order accordingly.

DATED at Dar es Salaam this 21<sup>st</sup> September, 2022.



  
A.Z MGEYEKWA

**JUDGE**

21.09.2022

Ruling delivered on 21<sup>st</sup> September, 2022 in the presence of Ms. Beatrice Njau, counsel for the applicant.



  
A.Z MGEYEKWA

**JUDGE**

21.09.2022