

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

**LAND REVISION NO. 31 OF 2022**

*(Arising from Application No.132 of 2014, in the District Land and Housing Tribunal  
for Ilala)*

**PHILEMON ELIASKIA MAVOO.....APPLICANT**

**VERSUS**

**THEODORY KAGENYI.....1<sup>ST</sup> RESPONDENT**

**MAGRETH TAUKA KAGENYI.....2<sup>ND</sup> RESPONDENT**

**R U L I N G**

*Date of Last Order: 17. 10.2022*

*Date of Ruling: 25.10.2022*

**T. N. MWENEGOHA, J.**

This application was brought under Sections 41(1) and 43(1)(a) and (b) of the Land Disputes Courts Act, Cap 216, R. E. 2019. The applicant wants the court to call for and examine the correctness, legality and regularity of the order and decision of the District Land and Housing Tribunal for Ilala District in respect of Land Application No.139 of 2014.

The respondent on the other hand raised a preliminary objection on point of law that the application is bad in law for failure to attach the copy of proceedings.

In his written submissions, Mr. Amin Mshana, the counsel for the respondent maintained that, the application is incompetent as the applicant did not attach the copy of proceedings of the Application No. 132 of 2014. That means, the Court cannot nullify and quash the

proceedings which is not before it. This position was given in the case of **Thinamy Entertainment Ltd and Two Others versus Dinos Katsapas, Civil Application No. 225 of 2013, Court of Appeal of Tanzania at Dar es Salaam (unreported)**.

In reply, the Advocate Amin Mohamed Mshana for the applicant, argued that, the objection lacks merits. That, the submissions by the counsel for the respondent are premised on the decision of the Court of Appeal that require attachment of the copy of proceedings in an application for Revisions. However, that is not the practice of this court. The law under Section 41(1) and 43(1)(b) of the Land Disputes Act, Cap 216 R. E. 2019 does not provide for that requirement. It is because the whole file from the lower tribunal will be transmitted to the superior court for its examination. This is the difference in practice between the Court of Appeal of Tanzania and the courts subordinate to it, as far as Revisions hearing is concerned. Therefore, this objection should be dismissed as it contravenes the rules given in **Mukisa Biscuits Manufacturing Company Ltd vs. West End Distributors Limited (1969) EA 696**.

After going through the submissions of parties through their respective counsels, the issue for determination is whether the objection has merits or not.

I will start my discussion of the issue above by reproducing the provisions which have been used as enabling provisions in the instant application. These are of Sections 41(1) and 43(1)(a) and (b) of the Land Disputes Courts Act, Cap 216, R. E. 2019, and they provide as follows:-

*41.-(1) Subject to the provisions of any law for the time being in force, all appeals, revisions and similar proceeding*

*from or in respect of any proceeding in a District Land and Housing Tribunal in the exercise of its original jurisdiction shall be heard by the High Court.*

*43.-(1) In addition to any other powers in that behalf conferred upon the High Court, the High Court-*

*(a) shall exercise general powers of supervision over all District Land and Housing Tribunals and may, at any time, call for and inspect the records of such tribunal and give directions as it considers necessary in the interests of justice, and all such tribunals shall comply with such direction without undue delay;*

As we can see from the above quoted provisions of law, there is no requirement of attaching a copy of the proceedings to which Revision is sought, when someone applies for the same in this Court. In other words, as argued by the applicant's counsel, what the respondents' counsel did is to confuse the practice of the Court of Appeal with that of the High Court in filing and hearing of revisions. That means, the objection at hand lacks merits. The same is overruled.

The main case shall proceed into hearing until its final determination.

Ordered accordingly.



**T. N. MWENEGOHA**

**JUDGE**

**25/10/2022**

