

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

MISC. LAND APPLICATION NO. 428 OF 2022
(Originating from Land Appeal No. 33 of 2021)

RASHID ATHUMAN ILOKO.....APPLICANT

VERSUS

AMINA RAMADHAN SOMBOKO.....RESPONDENT

R U L I N G

Date of Last Order: 12.10.2022

Date of Ruling: 31.10.2022

T. N. MWENEGOHA, J.

The applicant is seeking for a leave to appeal to the Court of Appeal of Tanzania, against the whole decision of this court, vide Land Appeal No.33 of 2021. The application was made under Section 47(2) of the Land Disputes Courts Act, Cap 216 R. E. 2019 and Order XLII Rule 2 of the Civil Procedure Code, Cap 33 R. E. 2019. The same has been accompanied by the affidavit of the applicant, Rashid Athuman Iloko. The application was argued by way of written submissions. Advocate Peter Philemon Shapa, appeared for the applicant while the respondent appeared in person.

However, when composing his ruling, I noted that the applicant intends to appeal against a dismissal order. That, the Land Appeal No.33 of 2021 was dismissed upon the applicant's(appellant) failure to appear in court (see paragraphs 1-7 of the affidavit in support of the application). Having

so noted, I realized that, the application before me is not maintainable owing to the said circumstances. The parties were ordered to address the court on the issue in question and both complied with the order.

After considering the submissions of parties on the issue raised, I am of the view that the application is unmaintainable. As it is note above, the appeal before Hon. K.T.R Mteule, J. was dismissed for want for prosecution. The remedies available to the applicant is an application for setting aside the dismissal order, and not leave to appeal to Court of Appeal.

To that end, the instant application is struck out. No order as to costs.

It is so ordered.


T. N. MWENEGOHA

JUDGE

31/10/2022

