

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

SUMBAWANGA DISTRICT REGISTRY

AT SUMBAWANGA

MISC. LAND APPLICATION NO. 31 OF 2022

(Originating from Land Case No. 11 of 2022 at High Court of Tanzania at Sumbawanga)

1. **KABADAGU LIMBO KABADAGU**
2. **MAGEMBE .D. LUBAGA**
3. **ELIAS IGAGABALE**
4. **PASCHAL .P. DIMA**
5. **MALIMI KIMOMBO KAMATA**
6. **EMANNUWE BURABO LUCHAGULA**
7. **ZENO JOSAPHATH NAMWANDA**
8. **SHETELA NYANKALI**
9. **PASKAZIA SIMONI KAZILI**
10. **ALPHONCE LUGUTU MASALU**
11. **ALEX GODFREY YUNUS**
12. **MASANJA M. BUNDEKA**
13. **MALIMBO HUSSEIN**
14. **MSEVEN NGASA MALENYE**
15. **DAUDI DIONIZI GENJI**
16. **SADAM GUMALIJA SHEMAGI**
17. **PETINA BULENYA NDEGE**
18. **PASCHAL S. GUMALIJA**
19. **YAKOBO MFAUME KABANGALALA**
20. **HARUNA MFAUME KABANGALALA**
21. **SAYI ELIASI MASUNGA**
22. **TUMBO EMMANUEL MCHUNGA**
23. **VISENTI KACHEGELO SWAGILA**
24. **SAMWELI NDODI JILASA**
25. **YENGU NGASA NGEZI**
26. **ZENGO SUNGWA NDULILA**
27. **JIPONDYA SENDAMA KADAMA**
28. **JITUNGULU KAKULU SELELI**
29. **DOTO TITIJA MALAGO**
30. **CHARLES JISENA NTINGINYA**
31. **MHELA MIPAWA DATUSA**
32. **YUMBU MIPAWA DATUSA**
33. **JOHN NGASA MALALE**
34. **KASHINJE LUDUTILA NGASA**

35. **MAYENGA KOMBOA SAKU**
36. **MACHENJA MUSA MACHEJA**
37. **BOYA MESU GUMA**
38. **AMOS TENGANJA MADUKA**
39. **NDEKANGI MHONOLI MALENDEJA**
40. **VICENT KACHEGELO SWAGILA**
41. **NGUSA KULUONE JILALA**
42. **KISINZA PAWA KINANGH'A**
43. **KULUONE JILALA NTALIJA**
44. **DAUD NDEJEMA MACHIYA**
45. **KISIMASI JISANDU KWANGU**
46. **SAMWELI NGUSA BULUBA**
47. **DANIEL KAPUGE MINZOI**
48. **MANANA MWELEMI MANANA**
49. **LUHENDE LUPUGA NGAMBA**
50. **LUHENDE MBUGA SENI**
51. **ELIZABETH KUZENZA MAKUNGU**
52. **ADIODATA K. KANYELE**
53. **MANENGO M. LOGANI**
54. **SOPHIA L. MLELEMA**
55. **SILASI K. MACHIBHULA**
56. **HAMISI S. UKOLO**
57. **MWAJUMA D. LUBINZA**
58. **DOI M. NGASA**
59. **ANASTAZIA J. SOLEA**
60. **KWIMBA M. MBUGA**
61. **NYAMIZI M. SHIWALA**
62. **SHIJA S. SHIJA**
63. **TUNGU KUBILU NKOLA**
64. **JOHN DUNDO KWIYEGA**
65. **RAJABU SOSOMA NHUNGO**
66. **ZAKARIA MSAFILI SEIF**
67. **PAULO P. JIMISHA**
68. **ELIZABETH M. ELIAS**
69. **JINASA MAGU**
70. **BAO BULUGU**
71. **ESTAR MAIKO**
72. **BUKOMBE JILALA**
73. **BULUBA NSUSI**
74. **BUYAGA NKILJIWA**
75. **CHILO BUNZALI**
76. **PITA CHINGA**
77. **KALIWILI JUMA**
78. **DEO JUMA**

79. **DOTO CHARLES**
80. **ELI CHEHAN**
81. **ESTA ELIAS**
82. **AMOSI JITUNGULU**
83. **GAGALA JUMA**
84. **KWILASA GEZI**
85. **MBALU NJILE**
86. **HOTELI BULUYI**
87. **HUSENI JUMA**
88. **JUMA DOTO**
89. **JAKADI NKULI**
90. **ELIAS JUMA**
91. **KADAMA MHEKELA**
92. **ELIUS KANIKI**
93. **HAMISI MUYINGA KALUNGA**
94. **YASINI HAMISI MUYINGA**
95. **DOTTO SALUM MUYINGA**
96. **ISA SALUMU MUYINGA**
97. **ADAMU HAMISI MUYINGA**
98. **MOHAMED RASHIDI**
99. **MALIAM JOSEPH**
100. **MAGANGA YOHANA**
101. **MAGANGA MPINA**
102. **MTIGA BULUBA NGUSA**
103. **MWALU BULUBA NGUSA**
104. **MALAGO BULUBA NGUSA**
105. **NTEBA SHADURACK**
106. **MALEG BULENYA KIZA**
107. **ZILIPA MINDADA CHUMA**
108. **DOTO SAKU NGHABI**
109. **LUHEDE BULUBA NGUSA**
110. **SHIPEMBE MALISHA LIMBE**
111. **MATHIAS CHARLES MATHIAS**
112. **YOHANA NYUMA DELEPH**
113. **BORA SIMONI RUFUTA**
114. **EMMANUEL KABABA MDUNGE**
115. **PATRISIA N KINGA LUHANYA**
116. **HAMIS RAMADHANI**
117. **MASANJA BULUBA NGUSA**
118. **MILEMBE LUHENDE MPANYA**
119. **RENATUS NDALAHWA DALEFA**
120. **SIMONI MASANJA NGUSA**
121. **NYANZE BULUBA NGUSA**
122. **JOHN MASALU**

123. **NEEMA MAKURU**
124. **DOTTO MASAUNGA LINGUSHA**
125. **MAIKO IBRAHIMU SIPEMBO**
126. **RASHIDI HAMISI MUYINGA**
127. **RAMADHANI HAMISI MUYINGA**
128. **NASORO SALUMU MUYINGA**
129. **JUMA HAMISI MUYINGA**
130. **JUMA MAGANGA LUHENDE**
131. **SHIJA NDOMA NKANDA**
132. **BUKWIMBA MADIYA BUKWIMBA**
133. **MASANJA NGELELA MAGASHI**
134. **NDITO CHINA SUNA**
135. **NZELA KAGOLE SOSOMA**
136. **TONDO BARIADI MAGUHA**
137. **MASELE CHALES SHISHI**
138. **ELIAS LUJATA GALUDUSHI**
139. **HAMISI BUSIGA DOFU**
140. **JILUGALA BULUGU LUKELESHA**
141. **JUMA AHMAD JUMA**
142. **KASHINJE MASESA NGASA**
143. **IBRAHIMU ISMAIL KAZIMOTO**
144. **EMANUEL NGHABI BAHATI**
145. **TOMAS M. NILA**
146. **MECTRIDA SAMWEL**
147. **JAMAICA MANZESE**
148. **NIA ISSA BANIKA**
149. **JIPONDYA SENDAMA KADAMA**
150. **MWANDU S. MAGAKA**
151. **JACKSON M. NDIMANGA**
152. **HAMIS SAID KILUNDA**
153. **KULWA LWIGI JOLO**
154. **LUHENDE MBOYEZE KAKINDILO**
155. **MIKAEL JOEL MAHULU**
156. **MUSSA ZAKARIA BUNDALA**
157. **SETI MZEE MBONYE**
158. **SAMSON KITULA GITU**
159. **MFAUME KABANGALALA MASANGU**
160. **MHANDE SULULUKA KILANGI**
161. **JOSEPH EDWARD LUGEZE**
162. **ENOCK MBOJE BAHIDA**
163. **RAMADHANI N. NZUMARI**
164. **GABOGABO N. MENYELA**
165. **MIDAHO HOHOTA TULULA**
166. **ISSA BAKARI MISAI**

167. ABEL PETRO CHOLE
168. RASHID HAMISI SAID
169. MICHAEL P. PELILUNDE
170. MWIGULU S. MAGASHI
171. YAYA NDALAHWA KINDO
172. JOSEPH SAWAKA MAGULU
173. PAULO P. JIMISHA
174. CHAUSIKU PANDISHA KAJUGI
175. ELIZABETH M. ELIAS
176. SHIBELA M. LUSEBYA
177. KIZA N. KIBOLEGWA
178. JUMA HAMISI MPANDASHALI
179. MSAFIRI L. KELEBE
180. EMANUEL SIMBA LUHEGA
181. RASHID A. MLUGALUGA
182. MWAGO RUFU
183. IDD M. MASOLA
184. LAZARO R. AMRI
185. SIMON B. KAMILI
186. LAMSO MASELE
187. DAMAS M. MASHEBA
188. CHINA J. NTALIJA
189. ANDREW MAZIKU KASHINDYE
190. SHANI YAHAYA ABEDI
191. MWAJUMA SAID MAHUYU
192. AMISA JUMA
193. MBESHIR BUNDALA
194. NTINGA BULUBA NGUSA
195. MALIA NGUKULU KULIKA
196. BUNDALA MBESHI
197. NYANZOBE NJILE MWANDU
198. MALEGI BUKELEZE DOTTO
199. KIJA MALEGI BUKELEBE
200. MAGEBE BUDALA BUKELEBE
201. JOSHIWA MALEGI BUKELEBE
202. SANDO MALIGI BUKELEDE
203. SAYI NGUSA BULUBA
204. NGUSA BUDEKA BULUBA
205. YUNGE BULUBA NGUSA
206. MAGAKA JOSEPH MASANJA
207. JOOLO MAGAKA JOSEPH
208. AMOSI MAGAKA JOSEPH
209. ABDUKIBA KAZULI
210. IMANI YOHANA KABADILI

211. **MASHAKA M. MWENDAPOLE**
212. **AMANI JUMA SAID**
213. **ELIZABETH A. NDEJA**
214. **SHIJA LUHALALA WANGALA**
215. **TELEZA JOSEPH MACHEYEKI**
216. **NKAMBA SAMWELI NKILA**
217. **ABEL GASTO KANDEGE**
218. **JACKSON ELIAS KAHAMA**
219. **MAGRETH OMARY BRUNO**
220. **NG'WANGO LUFU MADUKA**
221. **TOMAS SOMAGA NKINURU**
222. **SAMSON LUNEGEJA JISUSI**
223. **MOLISI SYEKEYE BIFUMBE**
224. **CHRISTOPHER A. NGALAMA**
225. **MASHAKA M. KAKULU**
226. **MALEGI JEMSI IKOMBE**
227. **SAMWEL B. JISHON**
228. **EMANUEL BULABO LUCHAGULA**
229. **DANIEL M. BULUBA**
230. **JUMA C. DANIEL**
231. **SIMONI B. DANIEL**
232. **LAZARO M. DANIEL**
233. **MPILIMO M. BULUBA**
234. **NGOLO DOTO KUNGALUSHU**
235. **NCHAMBI JISENA**
236. **KULWA NG'HOLONGO**
237. **LAJABU SOSOMA**
238. **SAGI BUNDALA**
239. **JALAZA Z. KANONI**
240. **SHIGELA R. MAKOLO**
241. **SUNGA SHIGELA KISUNA**
242. **NDUSI LYANG'OMBE MANHE**
243. **AMO KINDAI KULWA**
244. **MINZA MASUNGA MCHSEMBUKI**
245. **SHIMIYU NKUBA MPONEJA**
246. **MASANJA SHIMIYU NKUBA**
247. **SAYI MAHOYE KIJA**
248. **WILE SAMWELI GASOGA**
249. **ELIZA BULUBA NGUSA**
250. **MASAUDI NKUBA PONEJA**
251. **BALAKA BULUBA NGUSA**
252. **CHAMBI BULUBA NGUSA**
253. **KAMANI MATALU MBUNDA**
254. **GABRIELI Z. BENADULO**

255. **OBERD CHALES PAT**
256. **JOSEPH MARWA KESANTA**
257. **MERIKIO LUCAS MLELA**
258. **EMMANUEL MERIKIO MLELA**
259. **TECLA MERIKIO MLELA**
260. **MBOJE MALONGO NYAGA**
261. **CHAMBI LUTAMULA LYENI**
262. **MACHIBYA KANUNDA SITA**
263. **PAULO MACHIBYA KANUNDA**
264. **KABULA SAINDA**
265. **FOTUNATA LUNGUJU ALUFOSI**
266. **JOHN GUNDIJA MASALU**
267. **MASIGIJA SAYI BUNDEKA**
268. **WITINESI LUGAILA LUGUTU**
269. **MADAHA LUCKAS MASANJA**
270. **MALIAMU MASALU LUGAILA**
271. **NYANZOBA BULUBA NGUSA**
272. **JAFATI MASALU GUNDIJA**
273. **PILI KULWA MANHE**
274. **CHINA ISUNA TEMBADA**
275. **SHILINDE KELEMET MATIYA**
276. **ILANDALA BUKWIMBA ILANDOL**
277. **MADIYA CHITAFUMBWA MSAFILI**
278. **NHUHI MADIYA LUNGATA**
279. **MANGASHI GELELA MANGASHI**
280. **LUCKA SHINDANYA NTUNGA**
281. **MASHALA KIJA MASHALA**
282. **JINAMO SUMBUKA MADABA**
283. **EMANUEL MUKELEMO MSABIRA**
284. **MIHUMO JOHN KAMLI**
285. **NKAMBA JOSEPH KUZENZA**
286. **DITA EMANUEL MAKELEMO**
287. **MASHABA EMANUEL MAKELEMO**
288. **MWILAMILA MASANGU MWINANDA**
289. **ILUNDU MUSSA**
290. **MWAJUMA SAID MAHUYA**
291. **WALI MASELE MWILAMILA**
292. **MAGOBO NGUSA BULUBA**
293. **GUMALIJA SANDAMU GUMALIJA**
294. **DOTTO NGUSA NYAMA**
295. **MALANGO BULUBA NGUSA**
296. **MAHESA SAMWELI NGUSA**
297. **SENDE MASANJA**
298. **MASANJA JILALA**

299. **SHIJA MAZULI**
300. **KAPOLI UFUMBE**
301. **ELIZABET MASANJA**
302. **LUGALILA MAHONA**
303. **LUHENDE MLANI**
304. **LUKWAJA ELIAS**
305. **LUSHINGE SHIJA**
306. **MABALA ENOKA**
307. **MAGANGA JELI**
308. **MPINGA JOHN**
309. **MASANJA JAOWA**
310. **KASHINJE MASUNGA**
311. **JUMA MBUGA**
312. **MWANA MBULI**
313. **GENI MBOLA**
314. **MGANGA GENI**
315. **MIHAMBO SUBILA**
316. **KULWA HAMISI**
317. **JUMA MAGEMBE**
318. **MDANUKA JUMA**
319. **JUMA GITU**
320. **MISHUSHU JOSEPH..... APPLICANTS**

VERSUS

TANGANYIKA DISTRICT COUNCIL (MPANDA DC) 1ST RESPONDENT
DISTRICT COMMISSIONER OF TANGANYIKA DISTRICT 2ND RESPONDENT
THE ATTORNEY GENERAL 3RD RESPONDENT

RULING

05/12/2022 & 05/12/2022

MWENEMPAZI, J.

The applicants have made this application under the certificate of urgency, certifying that the hearing and disposal of this application is of

utmost urgency as the applicants are facing an imminent threat of being evicted immediately from the Suitland by the 1st and 2nd respondent as they are destroying farms and demolishing their houses.

The dispute land according to the affidavit sworn by Laurence John, the advocate for the applicant working together with Sekela Amulike, is located at Mabu, Visima viwili, Mpolwe, Msisi/Kabularanyere and Kagobole at Tanganyika District Council (famous as Mpanda DC) within Katavi Region. The counsels for the applicants have prayed that the same be adopted to form part of the submission.

This application has been made under provision of section 68(e) and Order XXXVII Rule 1(a) of the Civil Procedure Code, Cap 33 R.E. 2019. In a brief hearing, counsels for the applicant have submitted that their clients who are three hundred and twenty (320) in number have been staying at the dispute land for a time now. They have constructed their residence houses and have farms to produce for food and business. That is the place their livelihood is dependent.

Mindful of the conditions of the orders of the sort they have cited the case of Atilio Vs. Mbowe [1969] HCD 284 where the three conditions were

pronounced namely; one that there must be a serious question to be tried and probability that the plaintiff will be entitled to relief; two, that the interference of the Court is necessary to protect the plaintiff from injury which will be irreparable before legal right is established; and three, that on balance of probability there will be hardship and mischief suffered by the plaintiff if that order will be withheld.

In expounding further, the applicant's counsels have submitted that they have already filed a Land Case No. 11 of 2022 which is scheduled for mention on 26/01/2023. In it, there is a serious issue of ownership of the dispute land which they believe it will end in their favour. The applicants believe it is necessary that the Court intervenes otherwise they stand to suffer from the eviction and demolition of houses which is being carried out by the 1st and the 2nd respondent. Moreover, as they depend on their livelihood on the dispute land, they stand to suffer more than the 1st and 2nd respondent. Further, they are aware and believe that, the respondents will easily take the land in case it will be declared that it belong to them. They have thus prayed that the declaratory order to restrain the respondents be issued in their favour.

I have heard the applicant's counsels as well as read the application. The application is indeed appealing to my mind though the submission is the one end story. However, given the location of the Court and dispute land, it is impracticable to wait for service to be effected to the respondents. Prudence dictates to save habitat and economical platform for the applicants before demanding to hear the other side of the story, that is from the 1st and 2nd respondents. I think for balancing the rights of the parties, I will grant an exparte arm of the prayer to the applicants and allow them time to serve the application. For the reasons, an ex parte declaratory interim order to restrain the 1st and 2nd respondents their agents and workmen from evicting applicants in the suitland and demolishing applicant's houses and farms at the suit land is issued pending the hearing of this application inter parties.

Hearing inter parties is scheduled to be on 12th December, 2022 at 11:00 hours.

It is ordered accordingly.




T.M. Mwenempazi

Judge

05/12/2022