

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

**MISC. LAND CASE APPLICATION NO.535 OF 2022**

*(Arising from Land Case No.58 of 2020, of Tuangoma Ward Tribunal and  
Land Appeal No.3 of 2021, by Temeke District Land and Housing  
Tribunal)*

**ANATOLIA S MUTAKYANA .....APPLICANT**

**VERSUS**

**DEOGRATIUS M. SILINDE.....1<sup>ST</sup> RESPONDENT**

**SULEIMAN ALLY SAID.....2<sup>ND</sup> RESPOND**

**RULING**

*Date of Last Order: 18.10.2022*

*Date of Ruling: 28.11.2022*

**T.N. MWENEGOHA, J**

This application was objected by the respondents on two grounds; -

1. The application is incompetent for being filed without Court's leave.
2. The affidavit is fatally defective for being undated.

The objections were heard by written submissions. The respondents appeared in person while the applicant was represented Advocate Godlove Godwin.

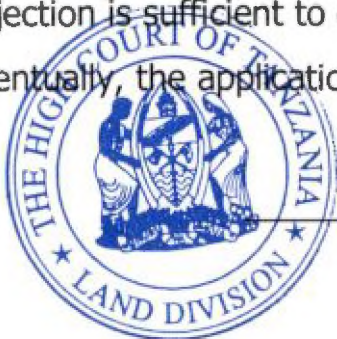
I will start with the 2<sup>nd</sup> objection, where the respondents insisted that, the applicant's affidavit is defective for not being signed and dated before verification of the same. This fact makes the affidavit defective hence the whole application is incompetent.

Replying on the submissions on the 2<sup>nd</sup> objection, Advocate Godwin maintained that, the affidavit is well sworn and verified by the deponent. It shows when and where the same was sworn and verified. Therefore, the objection is devoid of, and should be dismissed.

In their rejoinder, the respondents reiterated their submissions in chief. On my part, I agree with the respondents, the affidavit is defective. The same was not signed or dated by the deponent before verification. Hence it is defective. The effects of filing defective affidavit are well known, that it cannot support any application. The same cannot be acted upon by a Court of law as stated in **Lalago Cotton Ginnery and Oil Mills Company Limited versus LART, Civil Application No.8 of 2003, Court of Appeal of Tanzania (unreport).**

Therefore, the 2<sup>nd</sup> objection is sustained for being meritorious. On the basis of this finding, I will not discuss the 1<sup>st</sup> objection as allowing the 2<sup>nd</sup> objection is sufficient to dispose the entire application.

Eventually, the application is struck out with costs.



  
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**T.N. Mwenegoha.**  
**Judge**

**28/11/2022**