

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

**MISC. LAND APPEAL NO. 118 OF 2019**

*(Arising from the decision of the District Land and Housing Tribunal for Kinondoni District, in Land Appeal No. 46 of 2020, originating from the Ward Tribunal of Wazo, in Application No. 13 of 2020)*

**REHEMA JOHN..... APPELLANT**

**VERSUS**

**ANDREA JEREMIA KARUME.....RESPONDENT**

**J U D G M E N T**

*Date of Last Order: 12.05.2022*

*Date of Ruling: 30.05.2022*

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

Rehema John, the appellants herein above wants this court to overturn the decision of the District Land and Housing Tribunal Kinondoni District, herein after called the 1<sup>st</sup> Appellate Tribunal, vide Land Appeal No.46 of 2020. She is aggrieved by the said decision which upheld the decision of Ward Tribunal of Wazo, where the dispute originates, vide in Application No. 13 of 2020, hereinafter referred as a trial tribunal. Mr. Andrea Jeremia Karume is the respondent in the present appeal.

The two parties are neighbors, each owning a piece of land adjacent to the other. The dispute is over the boundaries of the two lands, belonging to the appellants and the respondent respectively.

At the trial tribunal, the respondent was the one who claimed that, the appellant has trespassed into his land and blocked the passage leading into the respondent's property. The trial tribunal conducted a full trial and found the appellant to have trespassed into the respondent's land by 8\*17\*9\*17 paces. Dissatisfied by the decision of the trial tribunal, the appellant unsuccessfully sought an appeal before the 1<sup>st</sup> appellate tribunal and now as a 2<sup>nd</sup> appeal, she is before this court based on the following grounds:-

- 1. The District Land and Housing Tribunal for Kinondoni erred in law and facts in upholding the decision of the Ward Tribunal while it failed to analyse and consider the evidence of both parties and the whole nature of the claim.**
- 2. The District Land and Housing Tribunal for Kinondoni erred in law and facts in holding that, the Ward Tribunal was properly constituted in respect of the quorum in the proceedings while it was not.**
- 3. The District Land and Housing Tribunal for Kinondoni erred in law and facts holding that, the respondent is a lawful owner of the suit premises despite the facts that the respondent purchased the piece of land being part of the plot that have been demarcated by the Ministry of Land and Human Settlement that was not sued.**

When the appeal came for hearing on the 6<sup>th</sup> of April 2022, the court ordered the parties to proceed by way of written submissions. The appellant's submissions were to reach this court by 20<sup>th</sup> April, 2020, followed by the reply from the respondent on the 5<sup>th</sup> May 2022 and a rejoinder on 12<sup>th</sup> May, 2022.

On the 12<sup>th</sup> of May, when the case came for mention, the appellant informed this court that, her Advocate has travelled to Njombe to attend his father's funeral since 9<sup>th</sup> of May, 2022. However, she failed to tell the court as to why she did not file her written submissions as ordered. Hence a date of this judgment was set.

It is well settled in a number of authorities that, failure to file written submission on the date scheduled by the Court amounts to non-appearance on the date fixed for hearing. The appellant and her Advocate failed to file their written submission on 20<sup>th</sup> April, 2022, the date fixed as per the records at hand. Either, they also failed to seek leave of this Court to extend the time if there was a need to do so. Their action of failing to communicate anything to court shows the fact that they have both lost interest in their case. Therefore, necessary orders need to be given as stated in **P3525 LT Idahya Maganga Gregory vs. The Judge Advocate General, Court Martial Criminal Appeal No. 2 of 2002, Court of Appeal of Tanzania, (unreported)** the Court held:

*"It is now settled in our jurisprudence that the practice of filling written submissions is tantamount to a hearing and; therefore, failure to file the submission as ordered is equivalent to non-appearance at a hearing or want of prosecution. The attendant consequences of failure to file written submissions are similar to those of failure to appear and prosecute or defend, as the case may be. Court decision on the subject matter is bound...Similarly, courts have not been soft with the litigants who fail to comply with court orders, including failure to file written submissions within the time frame ordered. Needless to state here that submissions*

*filed out of time and without leave of the court are not legally placed on records and are to be disregarded."*

In the event, the appeal is hereby dismissed for want of prosecution. No order as to costs

Ordered Accordingly.



  
**T. N. MWENEGOHA**

**JUDGE**

**30/05/2022**