

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

**MISC. LAND APPLICATION NO. 672 OF 2021**  
*(Originating from Land Appeal No. 86 of 2021, by Hon. V. L. Makani J)*

**JUMA YUSUF MYELA.....APPLICANT**

**VERSUS**

**LINDA ABDUL MANU (Guardian of  
LATILA RASHID) .....RESPONDENT**

**R U L I N G**

*Date of Last Order: 12.07.2022*  
*Date of Ruling: 25. 07 .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, given by V.L Makani J vide Land Appeal No. 86 of 2021, by Hon. V. L. Makani, J. dated 29<sup>th</sup> October, 2021. The application was made under Section 47(1) and (2) of the Land Disputes Courts Act, Cap 216 R. E. 2019 accompanied by the affidavit of the applicant himself, Juma Yusuf Mayela. The same was heard by way of written submissions, Wilson Edward Ogunde, learned counsel appeared for the applicant while Advocate Kulwa Shilemba appeared for the respondent.

In his submissions, Mr. Ogunde relied on Article 13(6)(a) of the Constitution of the United Republic of Tanzania of 1977 and claimed that the applicant enjoys the right to be heard on his intended appeal. Mr.

Ogunde maintained that, though allowing this application is a discretion of the court, but the court should consider the fact that if this application is denied the applicant's constitutional right will be curtailed if the said discretion is not judiciously exercised. That, above all, the applicant has got arguable issues which need the attention of the Court of Appeal as stated in **LTA Construction (Tanzania) Limited & 3 Others vs. Resolute (Tanzania) Limited, Misc. Commercial Application No. 224 of 2017, High Court of Tanzania, Commercial Division at Dar es Salaam, (unreported)**.

In reply, Mr. Shilemba for the respondent was of the view that, the leave to appeal is not granted on the basis of the presence of arguable issues, rather the existence of is prima facie grounds meriting an appeal to the court of Appeal as given in **HTT Infraco Limited versus Juliano Charles Mikongomi (Administrator of the Estate of the late Charles Mikongomi) & 2 Others, Misc. Civil Application No. 24 of 2020, Court of Appeal of Tanzania (unreported)**. That, looking at paragraph 7(a) and (b) of the Affidavit by the applicant, the grounds so stated for the intended appeal are all baseless. Therefore, this application should be denied.

I have considered the arguments of the applicant as well as the affidavit in support of the application. The question for determination is whether the application has merit or not.

In this case, it is obvious that the applicant has the right to appeal. That is his constitutional right as argued by his learned counsel under Article 13(6)(a) of the Constitution of the United Republic of Tanzania of 1977. That means, at this point, he is just looking for a green light to proceed

with his intended course. In my view, he deserves to be allowed to knock into the doors of the Court of Appeal of Tanzania to be heard on his course. Above all, the impugned decision by Makani, J. is appealable, hence there is no need to deny the applicant his chance to challenge the same.

I have considered also the grounds of appeal stated by the applicant in his Affidavit in support of this application. I find them to be raised a *prima facie* appeal worth of attention of the Court of Appeal of Tanzania, see **LTA Construction (Tanzania) Limited & 3 Others (supra)** and **HTT Infraco Limited (supra)**. Therefore, I find merits in this application.

In the end, the leave is hereby granted without costs.

It is so ordered.



**T. N. MWENEGOHA**  
**JUDGE**  
**25/07/2022**