

**IN THE HIGH COURT OF TANZANIA**

**(LAND DIVISION)**

**AT DAR ES SALAAM**

**MISC. LAND CASE APPLICATION NO.402 OF 2022**

**EXSERVIA DAIMA GAYO ..... 1<sup>ST</sup> APPLICANT**  
**IDD ZUBERI MLINDO ..... 2<sup>ND</sup> APPLICANT**  
**THOMAS LAURENT URASSA ..... 3<sup>RD</sup> APPLICANT**  
**SEBASTIAN SEBASTIAN CHIWANGU ..... 4<sup>TH</sup> APPLICANT**  
**ANETH DIDAS LYIMO ..... 5<sup>TH</sup> APPLICANT**

**VERSUS**

**THE ATTORNEY GENERAL ..... 1<sup>ST</sup> RESPONDENT**

**PERMANENT SECRETARY, MINISTRY OF LANDS, HOUSING**

**AND HUMAN SETTLEMENTS DEVELOPMENTS ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

Date of last order: 22.08.2022

Date of Ruling: 22.08.2022

**A.Z.MGEYEKWA, J**

Exservia Daima Gayo, Idd Zuberi Mlindo, Thomas Laurent, Urassa Sebastian Sebastian, Chiwangu and Aneth Didas Lyimo, the applicants herein stand on behalf of 159 people or victims having similar interests

and intend to sue the respondents. The applicants urge this court to allow them to represent other applicants in all necessary steps of initiating and instituting the intended suit. The applicants stated that all applicants are having the same interest.

The application is brought under Order I Rule 8 (1) of the Civil Procedure Code Cap. 33 [R.E 2019]. The applicant filed an affidavit deponed by Exservia Daima Gayo, Idd Zuberi Mlindo, Thomas Laurent, Urassa, Sebastian Sebastian Chiwangu and Aneth Didas Lyimo, the applicants. The respondents did not oppose the application.

At the hearing of this application, the applicants enjoyed the legal service of Mr. Taslima Twa, learned counsel whereby the respondents had the legal service of Mr. Salehe, learned State Attorney.

The learned State Attorney for the respondents has conceded the applicant's application. Therefore, I proceed to examine the applicants' affidavits to find out whether the application is meritorious.

This application for a representative suit by the applicants is brought under Order I Rule 8 (1) of the Civil Procedure Code Cap.33 [R.E 2019]. The rule provides for requirements for instituting the representative suit. It reads as follows:-

*8.-(1) Where numerous person are having the same interest in one suit, one or more of such persons may, with the permission of the*

*court, sue or be sued, or may defend, in such suit, on behalf of or for the benefit of all persons so interested; but the court shall in such case give, at the plaintiff's expense, a notice of the institution of the suit to all such persons either by personal service or, where from the number of persons or any other cause such service is not reasonably practicable, by public advertisement, as the court in each case may direct.*

The law requires that where numerous persons with the same interest want to appear in the suit on behalf of other interest persons have to do so after obtaining the permission of the court to file the same. In the instant application, the applicants through their learned counsel have moved this Court to allow them to appear and be heard or defend the case on behalf of other persons with the same interest in a suit.

The Court of Appeal of Tanzania has expounded on the principle and the relevancy of leave-in representative suits which have more than one person. In the case of **KJ Motors & 3 Others Ltd v Richard Kishimba & Others**, Civil Appeal No. 74 of 1999, CAT at Dar es Salaam (unreported) held that: -

*" The rationale for this view is fairly apparent where, for instance, a person comes forward and seeks to sue on behalf of other persons, those other persons might be dead, non-existent or either fictitious. Else he might purport to sue on behalf of persons who have not, in*

*fact, authorized him to do so. If this is not checked it can lead to undesirable consequences. The Court can exclude such 5 possibilities only by granting leave to the representative to sue on behalf of persons whom he must **satisfy the Court they do exist and that they have duly mandate him to sue on their behalf.***  
*[Emphasis added].*

Applying the above provision of the law in the instant application, it is clear that the other people have authorized the applicants to represent them in this intended suit against the respondents. In the present case, the applicants have prayed for Exservia Daima Gayo, Idd Zuberi Mlindo, Thomas Laurent, Urassa Sebastian Sebastian Chiwangu and Aneth Didas Lyimo to represent 70 others in land dispute concerning unfair compensation

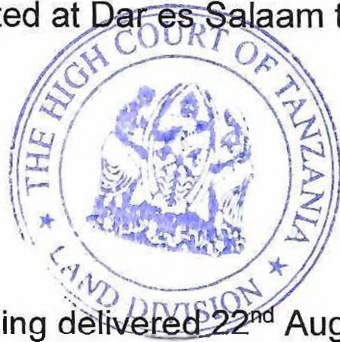
On paragraph 4 of the applicants' affidavit, they have stated that all of them have similar interests since they are dissatisfied with the whole process of valuation and compensation that were made by the respondents, hence intend to sue the respondents.

Reading the applicants' affidavit, the submission made by the learned counsel for applicants, and the minutes of the meeting it is clear that they convened a meeting and appointed the applicants to represent other people in the intended suit against the respondents, and all of them have appended their signatures in the minutes' sheet.

In the upshot, the application for the representative suit is allowed. I hereby allow Exservia Daima Gayo, Idd Zuberi Mlindo, Thomas Laurent, Urassa, Sebastian Sebastian Chiwangu and Aneth Didas Lyimo to represent other applicants in the intended case against the respondents. No order as to the costs.

Order accordingly.

Dated at Dar es Salaam this date 22<sup>nd</sup> August, 2022.



A.Z.MGEYEKWA

JUDGE

22.08.2022

Ruling delivered 22<sup>nd</sup> August, 2022 via audio teleconference whereas Mr. Taslima, learned counsel for the applicants, and Mr. Salehe, learned State Attorney for the respondents were remotely present.



A.Z.MGEYEKWA

JUDGE

22.08.2022