

THE UNITED REPUBLIC OF TANZANIA
(JUDICIARY)
THE HIGH COURT- LAND DIVISION
(MUSOMA SUB REGISTRY)
AT MUSOMA

Misc. LAND APPEAL No. 71 OF 2022

*(Arising from the District Land and Housing Tribunal for Mara at
Tarime in Land Appeal No. 83 of 2018 & originating from Mirare
Ward Tribunal in Land Dispute No. 9 of 2018)*

SILA WARYOBA APPELLANT

Versus

LOIS AKEYO RESPONDENT

JUDGMENT

14.03.2023 & 14.03.2023

Mtulya, J.:

The appellant in the present appeal, **Mr. Sila Waryoba**, had approached **Mirare Ward Tribunal** (the ward tribunal) and filed **Land Dispute No. 9 of 2018** (the dispute) complaining that:

Mimi Sila Waryoba namlalamikia ndugu Lois Okeyo kwa kuvamia eneo la ardhi yangu akidai kuwa eneo lake.

The ward tribunal heard the dispute and finally delivered its decision in favour of the respondent. The decision of the ward tribunal aggrieved the appellant hence preferred **Land Appeal No. 83 of 2018** before the **District Land and Housing Tribunal for Mara at Tarime** (the district tribunal) in **Land Appeal No. 83 of**

2018 (the appeal). The district tribunal on its part upheld the decision of the ward tribunal, which also disappointed the appellant hence preferred the present appeal appending a total of four reasons of appeal.

This morning the appeal was scheduled for hearing in the chambers of this court. However, before the hearing proceedings could take its course, **Mr. Baraka Makowe**, learned counsel for the respondent raised and contended that there is a legal fault in the proceedings of the ward tribunal which prohibits this court from pronouncing a rightful owner of the disputed land. In making his point understood, Mr. Makowe submitted that the prayer of the appellant at the ward tribunal is vague and cannot be granted by any court. In the opinion of Mr. Makowe, the appellant is silent on land size and location which is the legal fault in the dispute and the fault will make execution of the decision frustrating for want of certainty of the land.

In support of the first prayer of the appellant in the petition of appeal, Mr. Makowe contended that proceedings, decisions and decrees emanated from the ward and district tribunal may be quashed for want of proper record of the court. The prayer was supported by **Mr. Paul Obwana**, learned counsel of the appellant who submitted briefly that the wrong is vivid in the

record that the land in dispute lacks important descriptions in terms of size, location and boundaries.

I have perused the record of the instant appeal and found that the first page of the proceedings conducted at the ward tribunal on 8th March 2018, the appellant complained that:

Mimi Sila Waryoba namlalamikia ndugu Lois Okeyo kwa kuvamia eneo la ardhi yangu akidai kuwa eneo lake.

It is vivid from the record that the appellant had failed in his complaint to identify size, location and demarcations surroundings the disputed land. This is obvious breach of law enacted in Regulation 3 (2) (b) of the **Land Disputes Courts (The District Land and Housing Tribunal) Regulations, 2003** GN. No. 174 of 2003 (the Regulations) and precedent of **Hassan Rashidi Kingazi & Another v. Halmashauri ya Kijiji Cha Viti**, Land Case Appeal No. 12 of 2021. Following the vivid fault, I am moved by enactment in section 43 (1) (b) of the **Land Disputes Courts Act** [Cap. 216 R.E. 2019] (the Act) to nullify the impugned decisions and set aside all proceedings of both tribunals below for want of proper application of the law, as I hereby do. I do so without costs as the wrong was committed by the appellant, but blessed by both tribunals below.

As to the way forward, I leave it to the parties to decide, if any of them is still interested in the disputed land, to lodge a fresh and proper land dispute in appropriate forum in accordance to the current laws regulating land disputes.

It is so ordered.




F. H. Mtulya

Judge

14.03.2023

This judgment was delivered in Chambers under the Seal of this court in the presence of the appellant, **Mr. Sila Waryoba** and in the presence of **Mr. Baraka Makowe** and **Mr. Paul Obwana**, learned counsels of the parties.


F. H. Mtulya

Judge

14.03.2023