

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

LAND APPEAL No. 64 OF 2021

*(Arising from the District Land and Housing Tribunal for Mara at Musoma in
Misc. Land Application No. 150 of 2020 & Land Application No. 243 of 218)*

ROBANDA VILLAGE COUNCIL APPELLANT

Versus

MAGORI MATHIAS RUMATI RESPONDENT

JUDGMENT

23.03.2023 & 23.03.2023

Mtulya, J.:

The following words were recorded today morning in this court:

*Your Lordship, I concur with my learned
brother's submission. That is all my Lord.*

This is a reply of an officer of this court, **Mr. Thomas Makongo**, learned counsel for the respondent in the present appeal. Mr. Makongo after grasping the submission of **Mr. Kitiya Turoke**, learned State Attorney for the appellant, which shows that the **District Land and Housing Tribunal for Mara at Musoma** (the tribunal) in application for restoration in **Misc. Application No. 891 of 2019**, registered for purpose of setting aside dismissal order issued in **Land Application No. 243 of 2018** had recorded

consent judgment. The land dispute which was filed in **Land Application No. 243 of 2018** was dismissed by the tribunal, but before restoration of the same on record, the tribunal on 2nd April 2020, had marked the restoration application closed in favor of the consent judgment.


According to Mr. Turoke, at the time when the consent judgment was taking its course, the restoration application was not granted and there was nothing remained in the record of the tribunal for the parties to enter the consent judgment. According to him, the consent judgment is in breach of the law and bad on record hence prayed this court to invoke section 95 of the **Civil procedure Code [Cap. 33 R.E. 2019]** (the Code) and section 43 (1) (b) of the **Land Disputes Courts Act [Cap. 216 R.E. 2019]** (the Act) to exercise its revisional powers and nullify both the proceedings and consent judgment in **Misc. Application No. 891 of 2019** and any subsequent orders.

The reply from Mr. Makongo for the respondent is displayed at the first page of this judgment, and need not be repeated, as the dual are officers of this court and the fault is vivid on the record. Having said so, I am moved to set aside all proceedings and nullify judgment and subsequent orders emanated from **Misc. Application No. 891 of 2019** for want of proper record of the

court. I do so without costs as the fault was not caused by any party. If any party is still interested in the contest, he may wish to lodge fresh and proper land dispute in appropriate forum in accordance to the current laws regulating land disputes.

Ordered accordingly.




F. H. Mtulya

Judge

23.03.2023

This Judgment was pronounced in Chambers under the Seal of this court in the presence of the respondent, **Mr. Magori Mathias Rumati** and his learned counsel, **Mr. Thomas Makongo** and in the presence of **Mr. Kitiya Turoke**, learned State Attorney for the appellant.


F. H. Mtulya

Judge

23.03.2023