

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

**MISC. LAND CASE APPLICATION NO. 267 OF 2023
(Arising from Reference No. 31 of 2022)**

SAAD SADIKI.....APPLICANT

VERSUS

**MAULID NGAIWA JUMA.....1ST RESPONDENT
EFC TANZANIA MICROFINANCE BANK LIMITED.....2ND RESPONDENT
MLINDA JOHN3RD RESPONDENT
MAJEMBE AUCTION MART LIMITED.....4TH RESPONDENT**

RULING

Date of Last Order: 26.06.2023

Date of Ruling: 30.06.2023

T.N. MWENEGOHA, J

The applicant sought for a leave to appeal to the Court of Appeal of Tanzania, against the Ruling and Order, vide Reference No. 31 of 2022. The Application was made under **section 5(1)(c) and 5(2)(a)(ii) of the Appellate Jurisdiction Act, Cap 141, R.E 141 2019**. It was accompanied by the affidavit of the applicant himself, Saad Sadick. The same was heard orally.

Submitting in favour of the Application, Advocate Erick Simon for the applicant cited the case of **Agnes Bugigo versus Chiku Moshi Changa, Misc. Land App 236 of 2021** where the Court pointed out the reasons to be determined for leave, which are that; the applicant must have the party has right to appeal or the decision should be appealable. He insisted that, all these conditions were met by the applicant, hence his

Application should be allowed as stated in **NIC Bank Tz Ltd vs Patrick Edward Moshi & Another, Misc. Comm App No. 227 of 2015**

In reply Mr. Ismail Amin Mmari for the 1st respondent was of the view that, there is nothing warranting the intervention of the Court of Appeal. That, the High Court in its decision has finalized the matter, hence no need of going to the Court of Appeal. That, as stated in **NIC Bank vs Patrick Edward Moshi & Another**, the advocate for the applicant has not elaborated before this Court as to which are or what matter is really contradictory so that the Court of Appeal should meet to determine them. In rejoinder, Mr. Erick Simon reiterated his submission in chief.

Having gone through the submissions of parties, the issue for determination is whether the Application has merits or not. In an Application for leave, the Court considers mostly the right of the applicant to challenge the impugned decision and the constitutional right to be heard on another forum for his cause to be re-looked. That forum is no other than the Court of Appeal of Tanzania for this Case.

In this Application, the applicant has the right to challenge the impugned decision by way of appeal as the orders given therein are appealable. He deserved a leave to reach the Court of Appeal of Tanzania. This Court cannot step into his way to block his endeavors without any justifiable reasons **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)**.

In the end, the application is allowed with no order as to costs.





T. N. MWENEGOHA
JUDGE
30/06/2023