

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

**LAND REVISION NO. 31 OF 2022**

(Originating in Land Application No. 132 of 2014 by the District Land and Housing Tribunal for Ilala)

**PHILEMON ELIESKIA MAVOO.....APPLICANT**

**VERSUS**

**THEODORY KAGENYI.....1<sup>ST</sup> RESPONDENT**  
**MAGRETH TAUKA KAGENTI.....2<sup>ND</sup> RESPONDENT**

**R U L I N G**

*Date of Last Order: 28.07.2023*  
*Date of Ruling: 31. 07. 2023*

**T. N. MWENEGOHA, J.**

The Applicant invited this Court to call for, inspect and then revise the proceedings and decision given by Hon. Lungw'echa, vide Land Application No. 132 of 2014, dated 12<sup>th</sup> September, 2017, given the District Land and Housing Tribunal for Ilala. The Application was made under **Section 43(1), and 43(1)(b) of the Land Disputes Courts Act, Cap 216 R. E. 2019**. The same was supported by the affidavit of the applicant, Philemon Elieskia Mavoo.

The Application was heard by written submissions. Advocate Amin M. Mshana appeared for the applicant, while the respondents appeared in person.

As I was summing up of the submissions by parties, I noted that, the impugned decision subject of this Application, vide Land Application No. 132 of 2014, was settled by parties, including the applicant. Hence, giving rise to a consent Judgment. It is the same Judgment that the applicant seeks the same to be revised, see the applicant's affidavit, paragraphs 4 – 6.

This being the case, this Court ordered the parties to address it on the competence of the instant Application, owing to the existence of a consent Judgment in Application No. 132 of 2014. The parties complied with the order and I appreciate their arguments in respect of the issue so raised. I will not reproduce them in my Ruling, though the same have been used in reaching into deciding the fate of the Application at hand.

At this point, I wish to note that there are a number of authorities, giving guidance on how to challenge a consent judgment. To name few is the case of **Mohamed Enterprises (T) Limited versus Massoud Mohamed Nasser, Civil Application No. 33 of 2013, Court of Appeal of Tanzania, at Dar Es Salaam (unreported)**, where the court observed at page 18 that,

*"The only option open to the respondent here in was to file a fresh suit appropriate to that particular remedy, did not do so. Instead, he came before Twalib, J. by way of an application. That was not proper".*

Basing on the decision above quoted, it is obvious that, the applicant cannot challenge the impugned decision through an application for revision. Rather, he should insisted a fresh suit for the purpose of

challenging the settlement reached illegally as he claims. For these reasons, I find the present Application to be incompetent.

In the end, I strike out this application and each party shall bear his/her costs.

It is so ordered.



  
**T. N. MWENEGOHA**

**JUDGE**

**31/07/2023**