

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
(LAND DIVISION)  
AT DAR ES SALAAM  
LAND REVISION NO. 47 OF 2023**

**STANSALUS PATRICK .....APPLICANT**

**VERSUS**

**HILDA MATEI (As Administratrix of the Estate of the Late Sadiki Iddi).....1<sup>ST</sup> RESPONDENT**

**ZENA RAMADHANI.....2<sup>ND</sup> RESPONDENT**

**R U L I N G**

*30<sup>th</sup> November & 8<sup>th</sup> December 2023*

**MHINA, J.**

This is the revision application filed by the applicant, who was the appellant before the DLHT of Kibaha in Land Appeal No. 24 of 2019. In his chamber summons, he prays this court for the following: -

- i. That this Honorable court be pleased to call for and examine the record of the District Land and Housing Tribunal for Kibaha in Land Appeal No. 24 of 2019 (preceded by land case No. 09/2018 of Lugoba Ward Tribunal and Land Case No. 11/2017 of Lugoba Village) for purpose of satisfying itself to the correctness, legality or propriety of the decision therein, and as to the*

*regularity of the proceedings therein, and quash the proceedings and judgment thereof.*

- ii. That the costs of this application be provided for.*
- iii. Any other relief (s) as the Court may deem fit and just to grant.*

The chamber application was supported by an affidavit deponed by Stanslaus Patric, the applicant. The respondents filed a joint counter affidavit.

The matter proceeded by way of written submissions whereas the applicant drew and filed his written submissions in person while Ms Happyphania E. Luena learned counsel represented the 1<sup>st</sup> and 2<sup>nd</sup> respondents.

The applicant's grievances were to the effect that both the 1<sup>st</sup> and the 2<sup>nd</sup> respondents filed a case against the applicant in land No. 09/2018 and 10/2018 at Lugoba ward tribunal. The 2<sup>nd</sup> respondent had no cause of action, for she was a witness in the original land case No.11/2017 between the applicant and Sadiki Iddi.

The applicant further submitted that there is a legal issue whether the 2<sup>nd</sup> respondent, who had not been a party in the original land case No. 11/2017 at Lugoba Village, filed a land case No. 09/2018 against the applicant.

He maintained that he was aggrieved by the decision of the Ward tribunal in land appeals No. 09/2018 and 10/2018 and appealed to DLHT in appeals No. 24/2019 between the applicant and one Zena Ramadhani and No. 25/2019 between the applicant and Sadiki Iddi.

He insisted that this revision application has merit because the applicant has successfully shown sufficient reasons to enable the court to invoke the revision powers and allow the application.

Responding, the 1<sup>st</sup> and 2<sup>nd</sup> respondents learned counsel refuted the application and prayed the court to dismiss it with costs for the reasons she gave forth.

She submitted that the records show that there was Land Appeal No. 24 of 2019 between the applicant and the 2<sup>nd</sup> respondent in this revision application and Land Appeal No. 25 of 2019 between the applicant and Sadiki Iddi, who is the deceased and his estate is administered by the 1<sup>st</sup> respondent.

The learned counsel maintained that the applicant is confusing the court with the revision application involving parties of the two distinct cases. Referring to the cases, she stated that the parties to the cases are different, and the subject matter is also equally different.

The learned counsel insisted that the 1<sup>st</sup> respondent has never been a part of Land Case No. 09 of 2018, which is subject to this revision application. She maintained that the application lacked reasonable and sufficient cause for the issue claimed to be unfounded and prayed the application to be dismissed with costs.

Rejoining, the applicant maintained that both the respondents filed cases and claimed against the applicant. He went on to say that there were no records of appeal No. 25 between the Applicant and one Sadiki Iddi (the deceased), and the appeal was in respect of the 2<sup>nd</sup> respondent, who did not have a cause of action against the Applicant. He insisted that the 1<sup>st</sup> and the 2<sup>nd</sup> respondents claimed over the same piece of Land.

He maintained that this revision application has merit and prayed that the application be allowed with costs.

After the parties' submissions, I am tasked to determine whether the revision application has merit.

In so doing, I went through the court records and having so done, I will first address the issues found in the records in conjunction with the submissions by the parties.

It is in the record that, before the Lugoba ward tribunal, there was another matter, Land Application No. 10 of 2018, where the matter was

determined in favour of the respondent. The applicant appealed to the DLHT of Kibaha **Stanslaus Patrick (appellant) and Sadiki Iddi (Respondent)**. After the determination by DLHT, parties were warned that none was declared winner and proceedings, judgment and orders of the ward tribunal were nullified.

At the set of time, also in 2019, at Lugoba Ward tribunal, the 2<sup>nd</sup> respondent Zena Ramadhani instituted the Land case against the applicant, which was decided in her favor.

Dissatisfied, the applicant filed an appeal before the DLHT for Kibaha in Land Appeal No. 24 of 2019, the appeal which was dismissed.

Dissatisfied, the applicant filed a Land Revision application No. 07 of 2021 before this court (Makani, J. as he then was), which was disposed of on preliminaries and dismissed on 28.02.2022.

As it appears, before the Kibaha District and Housing Tribunal, the Land appeal No. 24 of 2029 was registered as ***Stanslaus Patrick vs Zena Ramadhani***. With no reasons stated, when the applicant filed a revision application No. 07 of 2021 before this court, parties changed and read: ***Stanslaus Patrick vs Sadiki Iddi (1<sup>st</sup> respondent) and Zena Ramadhani (2<sup>nd</sup> respondent)***.

In the present revision application, the parties kept on changing as it now reads on records: ***Stanslaus Patrick vs Hilda Matei (the Administratrix of the Estate of the Late), Sadik Iddi (1<sup>st</sup> respondent) and Zena Ramadhani (2<sup>nd</sup> respondent)***. It is from this point that I find that the claim by the respondent learned counsel, which the applicant had time to respond to through rejoinder, holds.

Since the joinder of parties to the case is regulated by law, especially Order I of the CPC, for the procedures and reasons to be adhered to for the party to be joined, it is not shown how the parties from Land appeal No. 09 of 2019 before DLHT kept on changing to accommodate the 2<sup>nd</sup> respondent who is the administrator of the Estate of Sadiki Iddi who was also not to the part to the case.

I do not agree with the applicant that there were no records of appeal No. 25 before the trial tribunal, while it had the same feature as the records. Also, in the absence of the records of appeal, No. 25 of 2019 before Kibaha DLHT does not justify his act of joining the 2<sup>nd</sup> respondent, who was neither in person nor the representative of the estate of the deceased, formed a party to the appeal No. 24 of 2019 which is subject to this revision application.

Having remarked on the above query, the question that presently confronts me is what needs to be done. To me, there can be no option for the amendment of the pleadings at this stage, and the only viable option is to strike out the revision application. The matter is, accordingly, pushed back to where it was immediately before the institution of the revision application. From there, the applicant may wish to take any necessary steps if he still wishes to pursue his cause. In fine, the revision application is struck out with costs.

It is so ordered.



  
K.D. MHINA

JUDGE

8/12/2023