IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(LAND DIVISION)

AT DAR ES SALAAM

LAND REVISION NO. 18 OF 2023

(Arising from Application No. 41 of 2006 and Misc. Application No. 310 of 2018, District Land and Housing Tribunal for Coast Region, at Kibaha)

ATTORNEY GENERAL .....APPLICANT

AND

MWAJUMA NGOMA (As Administratrix of the Estate of the Late HARUB NGOMA, JUMA NGOMA, MWALIMU ALLY NGOMA AND MASUDI NGOMA ..... 1ST RESPONDENT

THE DISTRICT EXECUTIVE DIRECTOR

BAGAMOYO DISTRICT COUNCIL ..... 2ND RESPONDENT

RULING

Date of last Order:2/11/2023

Date of Ruling:21/11/2023

MWAIPOPO, J:

This application for revision traces its genesis from the judgment in Application No. 41 of 2006 decided by Hon. Njiwa, J Chairman, at the District Land and Housing Tribunal for Coast Region at Kibaha as well as Application for Execution No. 310 of 2018 between Mwajuma Ngoma (as the Administratrix of the estate of the late Harub Ngoma, Juma Ngoma, Mwalimu Ally Ngoma and Masudi Ngoma), the Applicant and The District Executive Director, Bagamoyo District Council as the Respondent.

The instant Application has been preferred by the Attorney General, who is the Applicant against Mwajuma Ngoma (as the Administratrix of the estate of the late Harub Ngoma, Juma Ngoma, Mwalimu Ally Ngoma and Masudi Ngoma) and the District Executive Director, Bagamoyo District Council hereinafter referred to as the first and second respondents respectively. The Application is made under section 79(1) and 95 of the Civil Procedure Code Cap. 33. R. E. 2019, Section 43 (1) (b) and (2) and 45 of the Land Disputes Courts Act Cap 216 R.E. 2019 and Section 17(1) (a) of the Office of the Attorney General (Discharge of Duties) Act Cap. R. E. 2019.

The Chamber Application is supported by an Affidavit of Mr. Boaz Albany Msoffe, State Attorney, and it contains the following prayers: -

(i) That this Honourable court be pleased to call for and examine the correctness, legality and or propriety of the records of the District Land and Housing Tribunal (DLHT) for Coast Region at Kibaha in Application No. 41 of 2006.

(ii)That this Honourable court be pleased to revise, quash and set aside the Judgment and Decree of the DLHT for Coast Region at Kibaha in Application No. 41 of 2006 and the subsequent orders made therein.

(iii) That this Honourable court be pleased to grant any other relief(s).

(iv) Costs of this Application to follow the event.

The facts of this case can be narrated briefly as follows: In the year 2005 and 2006 the Bagamoyo District Council, the second Respondent, carried out a survey project for farms which were within Bagamoyo

District Council for purposes of acquiring and compensating the beneficiaries. The Project was carried out by the University College of Lands and Architectural Studies (UCLAS). The 1st Respondent was among the people whose areas were surveyed and acquired at Ukuni area, a suit farm, which is stated to be measuring about fifty (50) acres situated at Bagamoyo Road in Bagamoyo whereby upon the completion of the survey and records contained in the file, it was discovered that it had 17 acres with a total of 47 plots. It is stated in the record that the 1st Respondent resisted the 2nd Respondent's unwarranted exercise as it was carried out without any consent, notice or prior consultation with the 1st Respondent but the 2nd Respondent proceeded to enter into the suit farm and carried out its surveying activities. Following the survey, acquisition and assessment, it is stated that the 1st Respondent was compensated and paid TZS 13,036,482 and further given 30 plots of land and the remaining plots were given to other institutions such as the Judiciary of Tanzania and also allocated for other public uses such the Market, Petrol station, Bus stand and open space.

Following the 2nd Respondent's continued trespass into the suit farm and being dissatisfied with the awarded amount, the 1st Respondent filed an Application No. 41 of 2006 before the District Land and Housing Tribunal at Kibaha. The case was filed against the District Executive Director, Bagamoyo District Council, at Kibaha District Land and Housing Tribunal, claiming for the following reliefs:

(i) Permanent injunction restraining the Respondent, her agents and or workmen from entering and allocating the farm or any part thereof to people.

(ii) Shillings twenty million (20,000,000) as general damages.

DED in this case was sued and this Court dismissed the Application. See pg. 10 and 11 para 4. The Court stated that the District Council (Employer) cannot be left scot free in this case.

In another case, between **M/S Mkurugenzi NOWU Eng. vs. Godfrey Mpezya Civil Appeal No. 188 of 2018 CAT Dsm. Pg. 18 and 19 para 2** circumstances of suing the wrong party were also discussed in this case. The Court held that suing a wrong party had affected the entire proceedings. The learned State Attorney thus called the Court to revise, quash and set aside the proceedings in Application no 41/2006.

With regard to the second (ii) limb of illegality, the counsel submitted that the DLHT decided that there was no evidence tendered in court regarding the 1st Respondent indicating that she was paid compensation. He stated that the 1st Respondent who was then the Applicant, was fully compensated and that she admitted vide the Judgment in case no. 41/2006 decided at the DLHT that she was paid the money. The State Attorney referred the Court to page 5 of the Judgement where the 1st Respondent admitted before the DLHT to have been paid a cheque of 13 million plus 30 plots in 2009. In her own words she confirmed to have been paid. She admitted to have been compensated 30 plots equal to 7 acres. The Counsel solidified his arguments by stating that it was very clear that the 1st Respondent was fully compensated thus it was not proper for the DLHT to decide or rule that there was no evidence of payment. He thus prayed for the Court to revise, quash and set aside the decision and Decree of the DLHT in case no. 41 of 2006.

Submitting in rebuttal was the learned Counsel for the Respondent, Mr. Isiaka Yusuph, who took off by first adopting the Counter Affidavit of the

(iii) Costs of this suit.

(iv) Any other reliefs the tribunal may deem fit to grant.

The 1st Respondent filed the said Application as an administratrix of the estate of the late Harub Ngoma, Juma Ngoma, Mwalimu Ally Ngoma and Masudi Ngoma. The Application was based on suit farm located at ukuni area as stated above. That while the Application was yet to be finally determined, the parties attempted an amicable settlement, however the same never materialized. The issue was objected to by the 2nd Respondent, who continued to pursue the matter by filing its reply to the Application. As it is the usual practice, the matter was set for hearing, whereby both parties were heard and on the 14th of December 2016, the Tribunal delivered its judgment in favour of the 1st Respondent, with the following orders;

I. The Application is allowed with costs,

II. The Application (sic) who is yet to be paid compensation is declared the lawful owner of the suit land,

III. The Respondent if she is still interested to acquire the suit land should pay compensation according to the current market value of the suit land,

IV. The Applicant is also awarded general damages to the tune of Tshs. 5,000,000.

On 4th October, 2018, following the decision in Land Application no. 41/2006, the 1st Respondent filed an application for execution of decree, i.e. Application no 310 of 2018 whereby the Tribunal issued subsequent orders of valuation, eviction and demolition of the public

properties, against the 1st Respondent. Being aggrieved by the decision of the DLHT in Application No. 41 of 2006 and Application for execution No. 310 of 2018, the Attorney General who was not a party to the said cases preferred this Application for Revision containing 4 grounds of revision, supported by an Affidavit of Mr. Boaz Albany Msoffe, learned State Attorney. The 1st Respondent, Mwajuma Ngoma filed Counter Affidavit against the Applicant's Affidavit while the 2nd Respondent did not file any counter affidavit to oppose the Application.

At the commencement of the hearing, parties addressed the Court by way of oral hearing. The Applicant was represented by Mr. Mathew Fuko, learned State Attorney, the 1st Respondent enjoyed the services of the learned Advocate Isiaka Yusuph and the third Respondent was represented by Jackline Kavishe, learned State Attorney.

Arguing in support of the Revision, Mr. Mathew Fuko, learned State Attorney, began by adopting the contents of the affidavit of Mr. Boaz Albany Msoffe, learned State Attorney to form part of his oral submissions. He submitted that the purpose of the Application, was to seek court's orders for quashing and setting aside the Judgment and Decree of the District Land and Housing Tribunal at Kibaha in Land Application No. 41 of 2006 and the subsequent Decree. The reason being that when the matter was being heard and determined at the Tribunal, the Attorney General was not part of the said proceedings, he referred the Court to para 21 and 22 of the Affidavit. The learned State Attorney went on to submit that, the Attorney General, has noted that, the matter involves some public interest which has to be protected otherwise the same will be affected or

57 of 2018 CAT DSM pg. 24 Para 1 line 6; where it was stated that; the Court will only grant a relief which has been prayed for (this case cited with approval the case of **Funke Gwagilo)** whereby the Court of Appeal of Tanzania in this case quashed the Decree and set aside Judgment and Decree entered in favour of the 2nd Respondents. He thus submitted that since this Court is higher in hierarchy than the DLHT and has similar powers to set aside and quash the Decision of the DLHT, he prayed for the court to quash and set aside the Judgment and Decree since the reliefs were not asked for.

With regard to ground No. 3, the Counsel referred the Court to para 20 of the Affidavit and read it. Arguing in support of limb no. 3, he submitted that, proper parties are important, in any case which is filed in Court. He argued that it is not proper to file a case against a person who is not involved in the matter, especially in a situation where, when the Decree is issued its implementation will be rendered nugatory or not being able to be enforced against the person. The Counsel submitted before the Court that; when the case was being heard before the DLHT, the District Executive Director was sued as a respondent. It was his submission that even if the Government decides to enforce the decision or take any steps against him, it would become difficult, since he works under the District Council. It was his position that a proper party who was supposed to be pleaded was Bagamoyo District Council and not the District Executive Director (DED), as it was done. The Counsel cited the following cases to prove his point: - one, the case of **Haruna Ramadhani vs. District Executive Director Kyerwa District and Another Civil Case No. 9 of 2015** – HCT Bukoba where he stated that in this case, similar circumstances were decided by the Court. The

quashed and set aside. The grounds of illegalities are set out under para 20 as follows: -

(1) The Trial Tribunal went on to grant prayers, which were never prayed by the first respondent as per paragraph 8 and 14 of the Affidavit;

(2) The Trial Tribunal erred in law and in fact by holding that there was no evidence of compensation to the Respondent while the Respondent herself during examination in chief admitted to have received 30 Plots and TZS 13 Million from the 2nd Applicant as per page 5 of the annexture OSG3;

(3) The Trial Tribunal proceeded to hear and determine the Application and went on to issue execution orders against the improper party that is the District Executive Director of Bagamoyo District Council.

The Counsel went on to submit on the grounds of illegality reflected on page 20 of the Judgement of DLHT in Land Application No. 41/2006 as well as paragraph 20 (i) (ii) and (iii) of the Affidavit. He submitted that, with regard to ground no. (i) and (ii) of illegality, one will note that on page 20 of the Judgment, the Tribunal granted the 1st Respondent with a relief of being the lawful owner of the suit property. This prayer was not asked for /prayed before the Court. The learned State Attorney argued that looking at paragraph 14 (iii) of the Affidavit, relief (iii) for payment of compensation according to the correct market value, was also never asked for by the 1st Respondent in her Application. It was his submission that; for one to be granted a right or relief, he or she must ask for it first. In cementing his arguments, the counsel cited the case of **Melchiades, John Mwenda vs Gizeka Mbaga Civil Appeal No.**

jeopardized. To drive his point home, the Counsel cited Section 17(1) of the Office of the Attorney General (Discharge of Duties) Act which allows the AG to intervene in any case whenever there is public interest to be protected. He alluded further that the Applicant, the AG, is before this court in order to protect public property otherwise the Applicant's rights will be affected.

The Counsel further referred the Court to paragraphs 23 and 24 of the Affidavit which show that the Applicant was informed of the Dispute by Bagamoyo District Council by way of a letter dated 16th May, 2022, informing the Office of the Solicitor General of the presence of an Application for Execution no 310/2018 filed for purposes of executing the decision in Land Application No. 41 of 2006, requesting them to intervene on the matter. (See OSG.8). Following the information received, the applicant had to request for an extension of time to file an application for revision to this Court on 20/12/2022, vide Misc. Land Application No. 327 of 2022 between the parties herein. Upon hearing the matter, the High Court, (Mgeyekwa J) as she then was, granted leave (See para 24 of the Affidavit and a copy of the Ruling attached as OSG.9).

Before the Counsel proceeded to submit on the substance of the Revision, he narrated the facts of the case which I will not repeat them herein but will consider them in this Judgement as deemed appropriate.

The learned State Attorney submitted that the purpose of this application for revision is to challenge the Judgment and Decree of the Tribunal, which is tainted with illegalities. He referred the Court to paragraph 14-20 of the Affidavit. He prayed for the same to be revised,

1st Respondent to form part of the submissions before the Court. Before he began his submissions in rebuttal, he notified the Court on the anomaly, which he noted on the Application.

It was his preliminary observation that the Application is contrary to the law especially on how Revision Applications are filed. He stated that the law states that, the person who files Revision is supposed to attach the proceedings of the matter to be revised, and wherever there is no such proceedings, the Court will not be able to decide because there is nothing to refer to. He argued that the effect of the lack of proceedings has been mentioned in the following cases: - one, **Benedict Mabalanganya vs Romwald Sanga 2005 2 EA 152 and Martha Emmanuel Shayo vs Jesca Gordon Karlo and Another Civil Application No. `71 A/01/2021,** in the two cases cited above, the Court of Appeal of Tanzania stated that; the availability of proceedings is mandatory before the hearing of the Petition. In the Application before hand, he submitted that prior to the hearing date he requested to the Court to do perusal on the file on the 10th of July, 2023, so that they could satisfy themselves on whether the copy of the Application given to the 1st Respondent and the copy contained in the Court file, had a copy of the proceedings attached, however he discovered that, there was no any copy of proceedings attached to the copy of the Application and that of the 1st Respondent. In this regard, he argued that since the records of the Court are presumed to be correct, an Application for perusal was meant to cross check records and was done on the 10th of July 2023. Following the perusal exercise, he discovered that the Application for revision had some defects since it lacked proceedings. He argued that there is no evidence that, the Applicant asked for the proceedings, he

thus prayed for the Court to dismiss this Application with costs so that the Applicants could follow the appropriate procedure for bringing the Application for revision which is governed by case law. He prayed for the Court to make reference to those cases.

The Counsel proceeded to submit on the issue of public interest. Submitting on this issue, he contended, that the Applicant has stated that they have joined in the case because there is public interest to be protected and that if the Court is not invoked the Applicant will be affected. He argued that the issue of public interest is wide, the Counsel for the Applicant, must show how they will be affected, if not it will amount to pervasion of justice towards the 1st Respondent. He submitted that the State Attorney has stated that, they are the guardian of the 2nd Respondent and the Government of the URT, however they have not shown how they will be affected.

With regard to the delay in filing the Application for revision, the Counsel for the 1st Respondent submitted that the State Attorney has informed this court that they received implementation/execution Report on 16th May, 2022, however, the Affidavit does not show how they were prevented from knowing the matter since 2006. Therefore, he argued that this Application is meant to violate the rights of the 1st Respondent.

The learned Counsel further questioned the narration of the history by the State Attorney that he mentioned the availability of the 17 acres when referring to the plot in dispute. He argued that history is different from what was submitted during the hearing of Application no 41/2006

whereby it was stated that there were 22 Acres. In this regard he referred the Court to page 13 of the Judgment).

With regard to the issue of compensation, the Counsel submitted and emphasized that his client was not compensated. He stated that it was discovered during the trial that there was no any compensation paid to 1st Respondent. There was no any proof of payment as shown in the Land Application No. 41 of 2006, page. 14 – 19). He submitted that according to Black's law Dictionary, 8th edition, the word "**Compensation**" is defined as payment of damages. He alluded further that the 30 plots, which are said to have been given to the 1st Respondent, were also not compensated as she paid money for them. The Counsel attached Annexture MN – 1 showing the 1st Respondent paid TZS. 14,109,00 for the Plots.

With regard to TZS. 13,000,000, which is said to have been paid to the 1st Respondent, he submitted that it resulted from the costs of the case which proceeded exparte against the applicant, in the Bill of Costs No. 122 of 2017. He stated that even those funds were not given to the 1st Respondent as they were deposited into the Bank of the respective Council. The evidence during trial shows that the money was in respect of the exparte decision given by the Court. However, the learned advocate did no have a copy of the exparte decision at hand and could not cite, quote or make any reference to the exact pages of the decision. Mr. Isihaka went on to submit that compensation was not paid in accordance with the law or what the law says. Therefore, the Applicants did not satisfy the Court under section 110, 111 and 112 of the Law of Evidence Act in proving the issue of compensation.

In contesting the illegalities cited by the learned State Attorney, the learned Advocate Isihaka stated that, the State Attorney made reference to the reliefs, which were granted but not prayed for. He submitted that; the said assertion does not amount to an illegality. If one looks at the list of prayers, the Applicant prayed for any other orders the Court deemed fit to grant. Therefore, the Court had a right to declare the Applicant as the lawful owner. He argued that the validity of the DLHT Decision can be proved or seen in the case of **Paulina Samson Ndawavya vs. Theresia Thomas Madaha Civil Appeal No. 45 of 2017** Mwanza. In this case, the Applicant never asked for the payment of effecting title, however the Court granted it. Therefore, the case of **Melchiodes Mwenda**, cited before by the State Attorney is irrelevant in those circumstances.

With regard to the issue of impleading the wrong party, he submitted that this was an afterthought since; the 2nd Respondent was being served and appeared in Court to defend the matter. They did not put any objection to that effect. This ground cannot be used to defeat justice, against the 1st Respondent.

The learned Advocate submitted further on the issue of payment to the Applicant of 13 Million and 30 plots that, as argued by the State Attorney. That the Tribunal was not correct to state that the 1st Respondent was not paid. He argued and emphasized that the Tribunal was correct in stating that the 1st Respondent was not paid. He anchored his arguments on Article 13 (6) (a) of the Constitution by submitting that the 2nd Respondent and the Applicant and precisely the 2nd Respondent, had a chance of challenging the decision of the Tribunal but they never did that for a period of 16 years only to come and

challenge it now on illegality. He prayed that this Court should not agree with the Applicant and the issue of illegality should not be used as a shield. It was his legal position that the law should not assist those who slumber on their rights. This position was affirmed in the case of **Haji Bayo Hajibhai Ibrahim vs Mrs. Zubeda Ahmed Lakha Civil Application No. 573/11/2022 CAT Mwanza pg. 8.** Based on the quotation of the case he argued that, the AG has delayed in bringing this Application contending that they have an interest while the same is not substantiated in their Affidavit. The Counsel wondered why the AG was out of the picture all along while the matter concerns the institutions which it supervises and the Affidavit is silent on the reasons. The Counsel argued that, when one does a closer look at it, will note that the Applicant is like trying to pursue an appeal through the back door so that they could rectify what they did not do right which is contrary to the law. He argued that it is against the principle that litigations must come to can end. He thus prayed for the Application to be dismissed with costs as the decision by DLHT was correct and that the Applicant has not satisfied this court on the reasons for the delay. He concluded his submissions by making reference to Article 13(6)(a) that people should be heard and the decisions given. Both the Applicant and the 2nd Respondent are one and the same as they ought to have known about the case, much earlier and followed the right procedure. He contended that if this Application is allowed it will result into two decisions to be taken to the Court of Appeal and the 1st Respondent will exercise her right of appeal in accordance with the law.

In rejoinder, the Counsel for the Applicant reiterated his submissions in chief and responded to the issues raised as follows;

The State Attorney first responded on the preliminary objection on whether this Application met the criteria for being heard for failure to attach proceedings. He submitted that this Application is proper before the Court and has not violated any procedure of the law. On the issue of the failure of the Applicant to attach a copy of the proceedings on the Application and the cases cited by the learned Advocate, Mr. Isiaka, the learned State Attorney argued that the case of **Martha Emmanuel Shayo cited (supra)** is distinguishable in the sense that it is a case whose jurisdiction is the CAT where such procedures are conducted and parties submit all records to the Court so that they can be perused unlike in lower Courts. He clarified that the Application for revision attached a copy of the Judgment, which the Applicant seeks to challenge. He stated that, that is the reason why this Court is empowered to call and check records of the lower Court so that the Court can go through it. There is no any specific law requiring the submission of proceedings before the High Court so that it can assist the Court to reach justice. He thus concluded that the objection has no any merit, it should therefore be dismissed with costs.

With regard to the merits of this Application, the State Attorney argued that the Counsel for the 1st Respondent stated that the issue of public interest was not well articulated or substantiated and the Affidavit does not specify which properties. In reply he submitted that the response is provided under para 10 of the Affidavit which lists land or properties which were allocated for the Judiciary of Tanzania, the market place, petrol station, bus stand and open space which all fall under the plot in dispute. If the matter is not allowed or the Judgment in case no.

41/2006 is not quashed and set aside the Applicant will be severely affected.

With regard to the issue of compensation, the State Attorney argued that, the Counsel for the 1st Respondent negated the fact that compensation was paid to the Applicant. To the contrary the learned State Attorney submitted that the 1st respondent was fairly and wholly compensated. He referred the Court to page 5 of the judgment in case No. 41 of 2006 whereby the 1st Respondent then Applicant, admitted the fact that she was compensated. He submitted further that the Counsel for the 1st respondent contended that the amount of shillings 13. Million, which was paid, resulted from the Bill of Costs No. 122 of 2017. The Counsel argued that, this submission by Mr. Isiaka amounted to submission from the Bar since the Counsel did not attach anything in this regard.

As regards to the issue of the DLHT delivering the Judgment and Decree on reliefs which were not asked for and the cited the case of **Paulina Ndawavya (supra)**, the State Attorney submitted that the said case is distinguishable from the case at hand, because there is nowhere in this case where it is stated that one can be granted prayers which were not asked for even it is proved otherwise, he submitted that the facts of this case are different from the case cited since the matter concerned contracts which were entered between two parties (See page 5 of the judgment). The case cited by the Applicant **(Melchidies) supra** is dated 2020, the case cited by the 1st Respondent dates 2019 therefore not current.

Moving to the issue of pleading the wrong party, that is the DED, the Counsel for the 1st Respondent states that it was correct for the Applicant to sue the DED and that the 2nd respondent was provided with summons and has been appearing in Court. Mr. Fuko learned State Attorney submitted that it was not proper to sue DED, the DLHT has a duty to cure the mischief since day one, he contended that if we decide to leave the matter as it is, the mode of execution will be challenged and made impossible since the District Executive Director is just an employee of the District Council. Therefore, it was not proper to implead him as stated in the cases of **Ms. Mkurugenzi and the Haruna Ramadhani (supra).**

With regard to the delay by the 2nd Respondent to challenge the decision for 16 years and the Applicant coming in, he submitted that the AG has joined in this case because he has no right to appeal since the AG was not part of proceedings conducted at the Tribunal. That even if the 2nd respondent had a right to appeal and it never pursued it, that does not extinguish the right of the AG to intervene at any time as a custodian/guardian of public property/ government property by way of revision, since the AG was not part and parcel of the proceedings, and therefore he lacks the right to appeal. The proper way for him is to file a revision.

Regarding the issue of the Applicant not indicating reasons in the Affidavit for the delay in filing the Application Revision, the learned State Attorney submitted that, the submission by the Counsel for the 1st Respondent is irrelevant and an afterthought and was to be raised during the submission of the Application for revision or before hearing.

He referred the Court to para 24 of the Affidavit and stated that the Application for revision is aimed at challenging the Illegalities and not stating where the AG was since such issues were raised during hearing of the Application for extension of time to file revision and there is a decision by Mgeyekwa J as she then was on that.

With regard to the submissions by the Counsel for the 1st Respondent that, the Applicant has calculated to prolong the proceedings by making this application as an appeal in disguise and that litigation must come to an end, the learned State Attorney disputed the submissions and stated that the Applicant has no right to appeal but to apply for revision. That's why this Application is before this court. Similarly, he disputed the arguments by the 1st Respondents under article 13 (6) (a) of the constitution, by stating that, this article deals with natural justice in the sense that among the principles of natural justice is the right to be heard. That's why the Applicant is before this court, so that he can be heard as per Article 13(6) of the Constitution so that justice can be done. He finally prayed for this court to revise, quash and set aside the judgment of the DLHT in Land Application No. 41 of 2006.

Having heard the relatively lengthy submissions of both parties, I now turn to analyze the arguments of both parties in order to satisfy myself as to whether this Application for revision has merit or otherwise. However, before considering the merits or otherwise of this application, I am inclined as is the norm, to first deal with and dispose of the preliminary objection or observation raised by the Counsel for the 1st Respondent. This is in compliance with various decisions of the Court.

The preliminary objection is to the effect that the application is contrary to the law for failure to attach a copy of the proceedings related to the matter to be revised. These submissions were vehemently objected to by the Counsel for the Applicant as stated above.

Before I proceed to deal with this preliminary observation I must also state that this procedure of raising preliminary objections by way of a surprise is not a good practice. It still begs the question as to where the Counsel was all this time. Records from the proceedings indicate that the case has been fixed for mention and hearing several times, but he never dared to raise any objection or observation to that effect, and waited until the date of the hearing to do so. There is a plethora of decisions to the effect that surprises are unacceptable. Advocates should be professionals in the manner in which they take control of the proceedings. This Court has stated several times that; preliminary objections should be raised at an earliest opportune time in order to avoid surprises and ensure fair trial to parties. There is a plethora of authorities to that effect. See for instance the case of; **Commissioner General TRA Vs. Pan African Energy (T) Ltd Civil Application No. 206/2016(Unreported)** where the Court of Appeal stated that;

Justice is better served when the element of surprise is eliminated from the trial and parties are prepared to address issues on the basis of complete information of the case to be met.

In the case of **Singano Vs St Timoth Pre and Primary school Labour Revision No. 8/2019 unreported**, the High Court held that ;

A requirement of notice is meant to prevent surprise and ensure fair hearing.

Similar stance was also taken in the case of **Registered Trustees of the Baptist Convention of Tanzania vs. James Kisomi and others Misc. App no. 35/2021 HCT Mwanza.**

Considering the nature of the observation raised, I have nevertheless decided to proceed to determine it. After going through the arguments of both parties, I agree with the arguments by the counsel for the Applicant that, there is no any law that requires parties to attach a copy of proceedings in applications for revision filed before the High Court. This is also proved by the fact that, the counsel for the 1st Respondent could not cite any law in the course of proceedings, when asked by the court. I further agree with the counsel for the 1st Respondent that, the cases he cited are applicable for proceedings before the Court of Appeal. While I find it to be a good practice, there is no where it is stated that it is a mandatory procedure that could vitiate applications for revision filed at the High Court, if the proceedings are not attached. The cases cited by the 1st Respondent are distinguished in this regard, i.e. **Benedict Mabalanganya vs Rom Land Sanga 2005 2 E.N. 152 and the case of Martha Emmanuel Shayo vs. Jesca Gordon Karlo and Another Civil Application No. 17/A/01/2021.** I further agree with the Counsel for the Respondent that as a matter of procedure the High Court would normally call for records of the Tribunal for perusal and reference in order to ensure that justice is rendered to the parties.

I have further perused the copy of the application, filed by the Applicant, in Court and noted that it has attached both copies of Judgment and

Decree sought to be revised by the Court, which the Counsel for the 1st Respondent has not complained that, they were not attached to his application. Furthermore, in his own words, the Counsel for the 1st Respondent, has stated that he successfully applied to peruse the documents of the Court, on the 10th of July, 2023, to satisfy himself as to the records before the Court and whether or not the applicant attached a copy of proceedings in the Court's file since the record is always presumed to be correct. If the counsel managed to conduct perusal of the documents on the 10th of July 2023, it means he got the opportunity to peruse the proceedings and was not prejudiced in any way. Similarly, I also find that, non-attachment of proceedings has not occasioned any miscarriage of justice. The Counsel for the 1st Respondent has cited none. **(See Yusuph Nyabunda Nyafuru vs. Mean Speed Liner Ltd and Another).** Based on the foregoing, I proceed to overrule the preliminary objection or observation raised by the Counsel for 1st Respondent.

Having decided on the preliminary objection raised by learned Advocate Isihaka learned, I now move to the merits or otherwise of the instant Application for revision. The main question this court is invited to consider is whether this Application for revision is meritorious and hence it should succeed.

I wish to start the determination process by appreciating the laws cited in the instant Application. The Applicant has cited section 79(1) and 95 of the Civil Procedure Code Cap. 33 R. E. 2019, section 43 (1) (b) and (2) and 45 of the Land Disputes Courts Act Cap. 216 R. E. 2019 and section 17(1) (a) of the Office of the Attorney General (Discharge of

Duties) Act Cap. R. E. 2019, to drive the point home, that, this court has powers to for records, examine, revise, quash and set aside the decisions of the lower Courts, whenever there are reasons to do so in the interest of justice and that the Attorney General, is empowered to intervene in any legal proceedings whenever the interest of the government or public is at stake.

For avoidance of doubt section 79(1) of the Civil Procedure Code which has similar import with section 43(1) of the Land Disputes Courts Act reads as follows;

(1)The High Court may call for the record of any case which has been decided by any court subordinate to it and in which no appeal lies thereto, and if such subordinate court appears—

(a)to have exercised jurisdiction not vested in it by law;

(b)to have failed to exercise jurisdiction so vested; or

(c)to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit.

In their chamber summons, the Applicant has invited this court to determine four prayers, to wit:

i. That this Honourable court be pleased to call for and examine the correctness, legality and or propriety of the records of the District Land and Housing Tribunal for Coast Region at Kibaha in Application No. 41 of 2006.
ii. This Honourable Court be pleased to revise, quash and set aside the Judgment and Decree of the District Land and Housing

Tribunal for Coast Region at Kibaha in Application No. 41 of 2006 and the subsequent orders made therein.

iii. That this Honourable court be pleased to grant any other relief(s).

iv. Costs of this application to follow the event.

The Counsel for the Applicant has forcefully contended that the Judgment and Decree of the Tribunal are tainted with illegalities as pleaded under paragraph 14 and 20 of the Affidavit, hence prayed for Judgment in application No. 41 of 2006 to be revised quashed, and set aside. He reproduced the grounds of illegalities as set out under paragraph 20 of the Affidavit as follows: -

i. The trial tribunal went on to grant prayers to the 1st Respondent which were never prayed by the 1st Respondent as per paragraph 8 and 14 of the Affidavit.

ii. That the Trial tribunal erred in law and in fact by holding that there was no evidence of payment of compensation to the Respondent, while the Respondent herself during examination in chief admitted to have received 30 plots and TZS. 13 Million from the 2nd Applicant as per page 5 of the Annexture OSG. 3.

iii. The trial tribunal proceeded to hear and determine the Application and went on to issue execution orders against the improper party that is, the District Executive Director Bagamoyo District Council.

The learned State Attorney further submitted that; Para 20 of their Affidavit contains three grounds of illegalities which are divided into three limbs which will be dealt with separately as follows.

With regard to the first ground of illegality, Mr. Fuko submitted that, the Tribunal granted prayers which were never prayed by the respondent while the counsel for the 1st Respondent submitted that, the Court had powers to grant any other reliefs as prayed for by the 1st Respondent and that is what was granted.

Based on the submissions on this ground of illegality, I have perused at the copy of the Judgment in order to satisfy myself as to the prayers or reliefs which were sought by the 1st Respondent in the DLHT and noted on page 2 of the Judgment that the 1st Respondent, requested for the following prayers in her application to DLHT which read as follows: -

i. Permanent injunction restraining the respondent her agents and or workmen from entering and or allocating the farm or any part therefore to people.
i. Payment of Thirty Million (20,000,000/= as general damaged).
ii. Costs of the suit.
iii. Any other reliefs the tribunal may deem fit to grant.

However, on page 19 of the Judgment of the tribunal indicates that the Tribunal granted the following prayers: -

i. The application is allowed with costs.
ii. The application (sic) who is yet to be paid compensation is declared the lawful owner of the suit land.

iii. The respondent if it is still interested to acquire the suit land should pay fair compensation according to the current market valve of the suit land.

iv. The Applicant is also awarded general damages to the tune of Tshs. 5,000,000/=.

Based on the prayers sought and reliefs granted by the DLHT, I fully agree with the submission by the counsel for the Applicant that, the Tribunal granted the 1st Respondent with reliefs which were never specifically asked for and proved before it. These include; relief no (ii) relating to the Applicant being declared the lawful owner of the suit property. Similarly, relief no (iii) which is a prayer for paying fair compensation according to the current market value. These reliefs are not contained in the reliefs sought in Application No. 41 of 2006. (See page 2, 19 and 20 of the Judgement. Indeed, I also agree with the finding in the case of **Melchiades John Mwenda vs Gizeka Mbaga, Civil Appeal No. 57 of 2018 CAT pg. 24 para 1, line 6** which states that Courts should only grant a relief which has been prayed for, to be a guiding star.

In the case of **Melchiades (supra)** as rightly cited by Fuko, learned State Attorney, the Court of Appeal proceeded to quash the Decree and set aside Judgment and Decree entered in favour of the 2nd Respondent. I thus find that this illegality, is very obvious on the face of record as it does not need a rocket scientist to discover it or a long-drawn process of arguments and reasoning as it was held in the case of **The principle Secretary Ministry of Reference and National Service vs Deuran Valambhia (1992) TLR 185**. The contention by Mr. Isihaka, that, the

Court granted such prayers under the umbrella of **"any other reliefs"** does not have place in the instant application as the legal practice is that, prayers granted under the "any other relief" part, are normally, extra and granted after, the main prayers which have been requested by the Applicant, they are not a substitute of the main prayers contained in the Application which are supported by facts, issues and evidence tendered in court. In short, prayers are not supposed to be fabricated out of the blue. In the case of **Jonathan Kakaze vs Tanzania Breweries Ltd Civil Appeal No. 360 of 2019 CAT** the Court held that;

It is elementary law which is settled in our jurisdiction that the court will grant only a relief which has been prayed for.

The same was also held in the case of **Clamian Kiteso Vs John Moosdijk consolidated civil appeal no 41&42 of 2021 (HC)** that

The Court cannot grant the party what is not prayed for by party.

In this regard the case of **Paulina Samson Ndawanya (Supra)** cited by the 1st Respondent is hereby distinguished since in the said case, the court rightly granted the main prayer which had already been asked for the extra relief granted only consequential. Further as argued by re learned State Attorney the facts of the case are also different from the one at hand and in any case the case cited by the applicant is current.

Arguing in support of limb no. 3 of the grounds of illegality, he submitted that, parties to the case are important, in any case which is filed in Court. He argued that it is not proper to file a case against any

person who is not involved in the matter, especially in a situation when the Decree is issued, its implementation will be rendered nugatory or not being able to be enforced, against the person. The Counsel submitted before the Court that; when the case was being heard before the DLHT, the District Executive Director was sued as a respondent. It was his submission that even if the Government decides to enforce the decision or take any steps against him, it would become difficult, since he works under the District Council. Therefore, a proper party who was supposed to be pleaded was Bagamoyo District Council and not DED – the District Executive Director, as it was done.

I have perused the records and noted that, indeed in the said Application No. 41 of 2006, the District Executive Director, Bagamoyo District Council was sued as the Respondent. However, the procedure required the District Council of Bagamoyo to be sued as a party. I thus concur with the findings of the cited cases of **Haruna Ramadhani vs. District Executive Director Kyerwa District and Another Civil Case No. 9 of 2015** – HCT Bukoba in which the Court dismissed the case in a situation where the DED was sued. The Court stated that the District Council (Employer) cannot be left scot free in this case. I agree with the counsel for the Applicant that the DLHT, had a duty to cure that mischief since it is obvious that, the DED is just an employee of the District Council. Further, I add up that, the role of the Court as a temple of justice is to cure such kind of mischiefs, so that they do not repeat, and this is the essence of this application that has been brought by way of a revision by the Attorney General who was not a party then. It will be absurd if the mischief is left to stand intact. Therefore, the arguments by the Counsel for the first Respondent that the issue of

impleading the wrong party raised by the Applicant is an afterthought and an injustice done to the 1st Respondent, do not hold water.

Turning back to the second ground of illegality as it appears under paragraph 20, of the Affidavit, it is stated that the Trial Tribunal erred in law and in fact by holding that, there was no evidence of payment of compensation to the Respondent, while the Respondent herself during examination in chief admitted to have received 30 plots and TZS. 13 Million from the 2nd Applicant as per page 5 of the Annexture OSG. 3. This ground was vehemently objected by the Counsel for the 1st Respondent who emphasized that the 1st Respondent was not paid as there was no any proof tendered as per section 110, 111 and 112 of the Evidence Act. If at all there were any payments made then they were related to the Bill of Cost won in case No 127/2022.

In determining this ground of illegality, I have perused the records, and satisfied myself that, the 1st Respondent, was indeed paid by the 2nd Respondent, based on her own admission, as contended by Fuko, State Attorney. I have gone through the copy of the Judgment in Application No. 41 of 2006 and noted on page 4 and 5 the admission by the 1st Respondent or acknowledgement of receipt of money. The 1st Respondent who was then PW1 is recorded as follows in the judgement:

"PW1 said that when signing she thought that she was receiving Tshs. 5,000,000 ordered by the Tribunal that she should be paid. PW1 said that she was given a cheque of Thirteen Million plus and the same was paid in 2009. Pw1 said that she was then given papers for 30 plots, which took a total of 7 Areas".

Further, see also OSG1which is a Valuation Report indicating that the Applicant received the said amount of compensation. Therefore, based on this clear-cut record of evidence contained in the records I find that, it was not proper for the Tribunal to rule that there was no evidence of payment of compensation, while the admission by the respondent can be easily traced in the record of the Judgment as shown above. The argument that the TZS 13,000,000 resulted from the Bill of Costs No. 122 of 2017 which was won by the 1st Respondent are not palatable since the Counsel could not support his submissions with any documents related to the said case when he was asked to do so. Indeed, as submitted by Mr. Fuko learned State Attorney, such assertions amounted to submissions from the bar. Therefore, is yet another illegality which can be seen on face of the impugned records.

With regard to the 30 plots given to the 1st Respondent, Mr. isiaka submitted that attached Annexture MN – 1 shows that the 1st Respondent paid TZS. 14,190.00 for the plots. With due respect, I have perused the records and noted that those were just regular fees which were supposed to be paid by the 1st Respondent for the plots allocated to her. The fees were in respect of annual fees, premium, registration, survey etc. They would be paid by any one who holds land in Tanzania as per the requirements of the land laws. They cannot be termed as purchase price for the land as such as contended by the 1st Respondent.

Regarding the submissions by the Counsel for the 1st Respondent that the Applicant and the 2nd Respondent have delayed for 16 years in challenging the decision in Land Application no. 41/2006, which is

contrary to article 13(6)(a) of the Constitution which require parties to be heard and litigations to come to an end.

While I have satisfied myself from the records i.e. Para paragraph 23 of the Affidavit, annexture OSG 8 and OSG 9 respectively that the AG through the Solicitor General became aware of the matter on 16th May, 2022 through a letter from Bagamoyo District Council, of the presence of an application for execution of the Judgement in Land Application No. 41/2006 which requested the AG to intervene, in the execution Application No. 310 of 2018, I am of the position that the issue of delay in filing this Application should not detain me or at least this Court anymore since this issue was thoroughly dealt with by my Sister Mgeyekwa J, as she then was, in Miscellaneous Land Application No. 827 of 2022 between the parties herein which dealt with extension of time that was granted in favour of the Applicant (See para 24 of the Affidavit). In the said case, the Applicant adduced sufficient reasons to the satisfaction of the Court as to why they delayed. This Court cannot re-open that stage again.

Furthermore, with regard to the option of exercising the right to file a revision, I agree with the counsel for the Applicant that, this is the only way the Applicant could challenge this decision since he was not a party to the case at the Tribunal. Therefore Article 13(6)(a) entitles the Applicant as well the right to be heard on the illegalities and irregularities by way of a revision. I am aware of the jurisprudence that revision can be exercised in a situation where the right of appeal is not available and that revision is not an alternative to appeal and should never be taken as an alternative to appeal. That an aggrieved party

cannot simply choose to invoke revisional powers of this Court where there is a right to appeal. In the case of **Ramadhani Myolele versus Hamad Ali Islam, Misc. Civil Application No 40 of 2022, HCT Morogoro,** it was stated by my brother Ngwembe, J as he then was that;

> ***"Section 79 of the Civil Procedure Code Cap 33 RE 2019 distinguishes between appeal and revision. Right of revision is provided for when the decision is not appealable as of right.....The one who is moving this Court to exercise its revisional jurisdiction must disclose in clear terms, pinpointing illegalities, irregularities, incorrectness or inappropriateness of the proceedings or decision of the trial court. Equally important is for applicant to disclose as to why he decided to apply for revision instead of appealing against such a decision".***

In this Application, the Applicant has stated in his Affidavit under para 21, 22 and 25 that they have applied for revision because they were not part of the proceedings in the DLHT in the Application no. 41/2006 and the subsequent applications. Similarly, the Applicant has pinpointed out irregularities to be examined by this Court. Therefore, the arguments by Mr. isihaka, learned Advocate that the AG is using the remedy of Revision as a way to appeal through the back door is hereby denied.

Similarly, the AG being the Chief legal adviser of the Government and the first Advocate of the State has the right to intervene in any matter at

any time whenever Government interest is at stake. I have also satisfied myself with the fact that public properties narrated under paragraph 10 of the Affidavit were at stake of being demolished and beneficiaries evicted following the execution orders issued in Application for Execution no 310/2018 for purposes of implementing the impugned Judgement in Land Application no. 41/2006, as demonstrated by the applicant.

Section 17(1) of the Office of the Attorney General (Discharge of Duties) Act entitles the Attorney General through the Solicitor General to have the right to audience in proceedings of any suit, where public interest or public property is involved and whenever the legislature, the judiciary or an independent department or agency of the Government is sued. In this case, the Attorney General shall notify any Court, Tribunal or any other administrative body of the intention to be joined to the suit, inquiry or administrative proceedings; and satisfy the court, tribunal or any other administrative body of the public interest or public property involved. Throughout their submissions and Application (Chamber summons and Affidavit), the Applicant has demonstrated the applicability of section 17(1) of the Office of the Attorney General (Discharge of Duties) Act on the need of the Attorney General to be involved on this matter as well as the public interest and properties involved in the case let alone the fact that Bagamoyo District Council is a Government Institution. See Para 10 of the Affidavit which lists public properties which were allocated for the Judiciary of Tanzania, the market place, petrol station, bus stand and open space which all fall under the plot in dispute and if execution is left to proceed public interest and property will be severely jeopardized. This position was also cemented in the case of **Attorney General Versus Swiss Singapore**

Overseas Enterprise, PTE Ltd and NIC Tanzania Ltd, Civil Application No. 110/01 of 2019, CAT DSM where the Court of Appeal, Fikirini, J stated that;

> ***"The Applicant (AG) has a right to intervene in any proceedings before the Court or Tribunal in which there is a public interest to be protected".***

The Court went on to state that;

> ***"It is trite law that a party should be heard before any adverse decision is taken against it, this being a fundamental principle of natural justice that no one should be condemned unheard. The Attorney General being the Custodian of Government properties and interests through the Office of the Solicitor General, deserves to be heard in compliance with the provisions of section 43(1) of the Act, regardless of the fact that the proceedings before the High Court and this Court have been concluded".***

In the course of satisfying myself with submissions of the parties on the issue of protection of public interest and public properties, I have perused the records therein and noted that paragraphs 10,15,16,17 ,18,19,20,21, 22 and 26 of the Applicant's affidavit indicate how public interest and properties of the Applicant were put in jeopardy based on execution orders issued by the Tribunal. Despite the fact that the Applicant had been compensated by Bagamoyo District Council to the tune of TZS 13,036,482 and given 30 plots (Plot no 370-380 and 430-

441) out of surveyed plots, the 1st Respondent filed an Application no 41/2006 to challenge the said acquisition. Further I have satisfied myself based on the affidavit that during the pendency of the Application and after the allocation of 30 plots as part of her compensation, she proceeded to dispose the 30 plots to third parties. As stated in the Affidavit, the Bagamoyo District Council on its part also proceeded to allocate the remaining 17 plots to other private parties, the Judiciary of the United Republic of Tanzania(which is said to have built two staff houses, market place, petrol station , bus stand and an open space (See Para 6,7,8,9,10 of the Affidavit). It has also been stated that due to the pendency of the Case, the Bagamoyo District Council could not implement the said projects on the allocated lands. At the same time as deponed under para 13 and 14 of the Affidavit, the Tribunal proceeded to hear the Application in land case no 41/2006 and delivered Judgement which is tainted with illegalities as the same granted reliefs which were not prayed for, to the wrong party, the DED was wrongly sued and the Tribunal ordered for compensation to be repaid to the 1st Respondent contrary to what was asked for and in total disregard of the issues which were raised during hearing.

As if that was not enough, I have also observed that on 4th of October 2018, the Applicant applied for execution of the Decree praying to be awarded again TZS 13,677,000 as general damages, costs of the Application and vacant possession of the suit land. However, given the scenario and before the commencement of the hearing, the 2nd Respondent questioned the modality of the execution and the Tribunal ordered parties to adduce facts through the Affidavit. On the 1st of July, 2021, the Tribunal delivered its Ruling in total disregard of the facts

deposed and ordered the suit land to be valuated especially the open space and the 1st Respondent to be compensated again and be given her land which had already been given to her earlier on as per the records contained in the Judgement.

Furthermore, as deposed under para 19 of the Affidavit, when the Bagamoyo District Council was in a process of honouring the Decree the Tribunal issued yet another order for eviction and demolition which reappointed another broker namely Fosters auction Mart, to evict within 14 days the 2nd Respondent, Bagamoyo District Council, its agents or anybody acting under its instruction and demolish all structures in the suit land. That based on these trends of events the Applicant was affected by the Tribunal's order for eviction and demolition of the properties of Bagamoyo District Council and the Government of the United Republic of Tanzania in the name of implementing the Judgement which is tainted with illegalities. That considering the fact that the Applicant was not a party to the Application no 41/2006 and its subsequent execution orders, he filed this Application to challenge the illegalities set out under par 20 of the Affidavit, which in my analysis above throughout this decision, I have concluded that they constitute illegalities. Based on the record before me I am satisfied that the areas indicated to be demolished, that is, the Plot of land where the Judiciary built two staff houses, the market place, petrol station, bus stand and an open space constitute public properties and public interest worth to be protected by the applicant since they constitute the general welfare of the public that warrants recognition and protection and they are properties in which the public as a whole has a stake especially an interest that needs governmental regulation and protection by the

Attorney General who was not heard in the said Application. This was affirmed in the case of **Attorney General versus Sisi Enterprises Ltd, Civil Appeal No 30/2004 CAT Dsm,** in which the Court of Appeal of Tanzania, Msoffe J, defined the concept of public interest to mean;

1. **General welfare of the public that warrants recognition and protection**
2. **Something in which the public as a whole has a stake especially an interest that governmental regulation.**

Similarly, since they are public properties, they constitute public interest to be protected by the Attorney General as a guardian of the Public interest. See the case **AG versus swiss Corporation PTE (Supra)** and the case of **Lujuna Shubi Balonzi versus Registered Trustees of Chama cha Mapinduzi (1966) TLR 203**

Lastly, the Counsel for the first Respondent further, challenged the narration of the history of the matter by the counsel for the Applicant, who stated that the Land comprised of 17 acres while the Judgment in Application No. 41 of 2006 states that there were 22 Acres. [**See page 13].**

With regard to this issue I have noted that on page 13 of the impugned Judgement, it states that the area had 22 acres, however, it is my position that this is the very Judgement or record which is being impugned by the AG who was not a party to the said proceedings of the Tribunal which had an opportunity of visiting the locus in quo in his absence and who in his Affidavit holds a different position from the

submissions by the Counsel for the Respondent (See para 6 of the Affidavit). My role at this juncture is not to re open and asses evidence but to look on the propriety of the record of the Tribunal that has resulted into this Application for Revision. The main point being that the AG was not heard in the said case No. 41 of the 2006 was not heard in the said case no 4112006.

Based on the findings above, I hold that this Application for revision has merit in light of Section 79 (1) and 95 of the Civil Procedure Code [CAP.333 R.E 2019], Section 43 (1) (b) and (2) and 45 of the Land Dispute Courts Act [CAP. 216 R.E. 2019] and Section 17 (1) (a) of the Office of the Attorney General (Discharge of Duties) Act, [CAP. R.E 2019]] and that the Proceedings in Miscellaneous Land Application No. 41/2006 in which the Applicant was not a party to and all orders emanating from the said decision of the District Land and Housing Tribunal are hereby declared null and void for the reason that they are tainted with irregularities as analysed herein above.

In the upshot I proceed to allow this application for revision, quash and set aside the Judgement, Decree and Proceedings of the DLHT for Coastal Region at Kibaha in Land Application no. 41/2006 and set aside all the subsequent orders made therein.

Each party shall bear its own costs.

It is so ordered.

DATED at **DAR ES SALAAM** this **21st** day of **November 2023.**

THE HIGH COURT OF TANZANIA
LAND DIVISION

S. D. MWAIPOPO,
JUDGE,
21 /11/2023

The Ruling delivered this 21st day of November, 2023 in the presence of Boaz Msoffe, learned State Attorney for the Applicant, learned Advocate Isihaka Yusuph for the 1st Respondent and Ms Jackline Kavishe learned State Attorney for the 2nd Respondent, is hereby certified as a true copy of the original.

THE HIGH COURT OF TANZANIA
LAND DIVISION

S.D. MWAIPOPO
JUDGE
21/11/2023