

IN THE HIGH COURT OF TANZANIA

(LAND DIVISION)

AT DAR ES SALAAM

MISC. LAND CASE APPLICATION NO. 683 OF 2022

(Arising from Misc. Land Application No. 667 of 2022)

MAJUTO RAMADHANI MPUA APPLICANT

VERSUS

SIJA RAJABU MURO 1ST RESPONDENT

LINUS F. LYELA 2ND RESPONDENT

RULING

Date of last Order 17.01.2023

Date of Ruling 24.01.2023

A.Z.MGEYEKWA, J

This application is brought under section 5 (1) (c) of the Appellate Jurisdiction Act, Cap. 41 [R.E 2019] and section 95 of the Civil Procedure Code Cap. 33 [R.E 2019] The applicant seeks leave to appeal to the Court of Appeal of Tanzania against the impugned decision of this Court in Land Application No. 667 of 2022 delivered on 30th September, 2022. The application is supported by an affidavit deponed by Majuto Ramadhani Mputa, the applicant. The respondent feverishly opposed the application. In a counter-affidavit sworn by Sija Rajabu Muro, the respondent.

When the matter was called for hearing before this court on 20th December, 2022, the applicant appeared in person, unrepresented while the first respondent enjoyed the legal service of Mr. Ayubu Rashid, learned counsel. The matter proceeded *ex parte* against the second respondent who was duly been summoned to appear in Court through *Mwananchi* Newspaper dated 14th December, 2022 but he did not show appearance. Pursuant to the Court order the application was argued by way of written submission both parties complied with the court order.

Before summarizing the applicant's submission, this Court noted a point of law. *Suo motu*, I prompted the applicant to address the Court *whether the application was properly before this Court*. Since it was a matter of point of law, I had to explain to the applicant that the application before this Court originates from the application for an extension of time in Misc. Land Application No. 667 of 2022 whereas the applicant's application was dismissed. Thereafter, the applicant filed a Misc. Land Application No. 667 of 2022 for extension of time to file a review against the decision of this Court in Misc. Land Application No. 667 of 2022. However, his application was rejected. The applicant had nothing to say but rather banked on the Court's decision.

This Court informed the applicant that no appeal lies from an order rejecting an extension of time since the same originates from the High

Court In other words, leave to appeal is no longer a prerequisite for matters arising from the High Court's exercise of its original jurisdiction following the amendment of section 47 (1) of the Land Disputes Courts Act, Cap. 216 by section 9 of the Written Laws (Miscellaneous Amendments) (No. 3) Act, No. 8 of 2018. For ease of reference I reproduce section 9 (1) of the Written Laws (Miscellaneous Amendments) (No. 3) Act, No. 8 of 2018 here under:

“ 9 (1) A person who is aggrieved by the decision of the High Court in the exercise of its original jurisdiction may appeal to the Court of Appeal in accordance with the provisions of the Appellate Jurisdiction Act.”

See the case of **Hassan Kibasa v Angelesia Chang'a**, Civil Application No. 405/13 of 2018, this Court faced a similar situation, the applicant was seeking leave to appeal to the Court of Appeal of Tanzania against the aforesaid refusal of extension. The Court of Appeal of Tanzania in its Ruling stated that:-

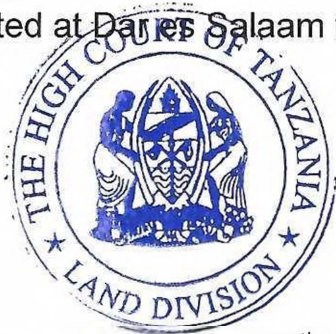
“..., leave to appeal is no longer a prerequisite for land matters arising from the High Court's exercise of its original jurisdiction...”

The applicant has an opportunity to appeal to the Court of Appeal in accordance with the provisions of the Appellate Jurisdiction Act, Cap. 141.

In the upshot, I find that this application for an extension of time to file an appeal against the decision of this Court is misconceived. Therefore, I restrain myself from determining the instant application knowing that the applicant's application cannot succeed. I proceed to strike out the Misc. Land Application No. 683 of 2022 with no order as to costs.

Order accordingly.

Dated at Dar es Salaam this date 24th January, 2023




A.Z. MGEYEKWA

JUDGE

24.01.2023

Ruling delivered on 24th January, 2023 in the presence of the applicant.




A.Z. MGEYEKWA

JUDGE

24.01.2023