

IN THE HIGH COURT OF TANZANIA

AT DAR ES SALAAM

MISC. CIVIL APPLICATION NO. 106 OF 2003

FADHILA MOHAMED GUGUAPPLICANT

V E R S U S

MOHAMED MASHAMU MPOTORESPONDENT

RULING

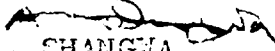
SHANGWA, J.

This is an ex-parte application for leave to institute Civil Proceedings in respect of an unregistered land in a court other than the Primary Court. It is supported by affidavit of Elisa Abel Msuya, an advocate for the High Court of Tanzania. The land which is involved is located at Kimamba Village within Dar es salaam Region. The intended suit is for trespass on the applicant's land by one Mohamed Mushamu Mpoto.

The applicant filed this application on 22nd April, 2003. He did so under S.63 of the Magistrate's Courts Act, 1934. The proviso to this section provides inter-alia that ... no Civil Proceedings in respect of immovable property, other than proceedings relating to land held on a Government lease or a right of Occupancy granted under the Land Ordinance, or proceedings Under S.22 or 23 of the Land Ordinance shall be commenced in any court other than a Primary Court unless the Republic is a party thereto or unless the High Court gives leave for such proceedings to be commenced in some other court.

As the intended suit is in respect of immovable property in form of unregistered land which is located in the village at Kibamba and leave of the High Court is mandatory in order for the suit to be filed in a court other than the Primary Court, I hereby grant leave to the applicant to file his suit in the District Court of Kinondoni as prayed on his behalf by Mr, Elisa Abel Msuya, Advocate. It is so decided.

Delivered in court this 23rd day of May, 2003 in the presence of Mr, Msuya, E.A Advocate and his assistants Miss Magabe and Miss Khando.


A. SHANGWA

JUDGE

23/5/2003