

IN THE HIGH COURT OF TANZANIA  
(DAR ES SALAAM DISTRICT REGISTRY)

AT DAR ES SALAAM

LAND APPEAL NO. 96 OF 2008

MICHAEL VINCENT.....APPELLANT

VERSUS

ERASMO STEPHANO HONGOLI.....RESPONDENT

JUDGEMENT

MURUKE, J.

This matter started at Mukuza Ward Tribunal, where appellant sued respondent for trespass. The Ward tribunal found in favour of the respondent. The Ward tribunal directed parties to re-start at the Village land council to determine ownership. Though the decision was in favour of the respondent, it is the respondent who filed land appeal No. 54 of 2008 to the District land and housing tribunal of Tanga. The District land and housing tribunal found in favour of the respondent. The Decisions of District Land and housing tribunal dissatisfied the appellant. He filed present appeal with 4 grounds contained in the memorandum of appeal filed.

On the date set for hearing Mr. Kilule represented appellant while respondent was in person, and ready to argue his case. Parties submitted for and against the memorandum of appeal filed.

Without going to the merits of their submissions, it is worth mentioning that there is irregularity on the District land and housing tribunal proceedings, which cannot be left to stand. At the Ward Tribunal the matter was Criminal trespass. While at the District Land and housing Tribunal, the case was named Land appeal No. 54 of 2008. One wonders Land appeal from which land case of the Ward Tribunal? It was a serious error for the District land and housing tribunal to entertain the matter as Land appeal originating from Criminal Case. That is why the Ward Tribunal after finding that there is no trespass committed by the respondent, parties were ordered to start from Village land counsel to determine ownership first as per the order of Ward tribunal dated 24/02/2007. Land appeal cannot emanate from criminal trespass as an offence which is a criminal case. There was no appeal

before tribunal for the honourable chairman to determine.  
It goes without saying that what proceeded at District land  
and housing tribunal is a nullity. Ought to be quashed.  
District Land and housing tribunal proceedings are hereby  
quashed for being nullity with costs.



  
Z. G. Muruke

**JUDGE**


20/09/2011

Coram: Mussa, J;

Appellant: Present

Respondent: Present

Judgment pronounced.



**K.M. MUSSA, J.**  
**19/12/2011**