

**IN THE HIGH COURT OF TANZANIA  
(LAND DIVISION)**

**AT DAR ES SALAAM**

**LAND APPEAL NO. 68 OF 2008**

***(From the Decision of the District Land and Housing  
Tribunal of ILALA District in Land  
Application No. 69 of 2007)***

**RUBEYA MOHAMEDI..... APPELLANT**  
**VERSUS**  
**BLANTIYE RUGAGARA ..... RESPONDENT**

**R U L I N G**

**A.F Ngwala,J.**

On 22/2/2012 this Court delivered a Judgment in respect of an appeal from the Ilala District Land and Housing Tribunal. The appeal was dismissed with costs. Being aggrieved, the Appellant, Rubeya Mohamed filed a Notice of Appeal intending to appeal against the Judgment of the Court. Meanwhile before the Notice of Appeal could be entertained the Respondent filed a Chamber Application moving the court to Order demolition of structures in the suit premises and to issue an arrest warrant to the Appellant/Respondent. The Appellant/Respondent however did not file a Counter Affidavit in respect of the Chamber Application.

On the Hearing date Mr. Samwel, learned Counsel for the Respondent/Applicant prayed the Court to grant the Orders sought in the Chamber Application because it is not consented by the Appellant/Respondent. Mr. Ngatunga, learned advocate for the Appellant/Respondent contended that he could not trace his client and that the proper Order is to issue summons to issue an arrest Order, but not to Order demolition.

In view of the above, I have a considered opinion that at this stage this Court cannot issue any Order. The suit originates from the District Land and Housing Tribunal and the Appellant has shown his intention to appeal to the Court of Appeal of Tanzania. Since the notice of appeal has been lodged this Court becomes functus officio to the suit other than to entertain the application for leave to appeal.

Moreover, this Court is not an executing Court, an Order for demolition or arrest cannot be issued. Consequently, the prayers sought by Mr. Samwel must fail. Further, the Applicant's/ Respondent Chamber Application filed on 19/9/2012 is struck out

for want of Courts Jurisdiction. Parties proceed with the hearing of an Application for Leave to Appeal which was filed on 30<sup>th</sup> August, 2011. And the Applicant should have served the Respondent the said Chamber summons. Otherwise the Respondent should proceed with the execution of the Decree of this Court in the executing Court.

**A.F. Ngwala,  
JUDGE,  
06/05/2012.**