

TANZANIA / JUDGMENT

LAND APPEAL NO 18177 OF 2024 scanned

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA (LAND DIVISION) AT DAR ES SALAAM LAND APPEAL NO.18177 OF 2024 (Arising from Land Application No.260 of 2021, of the District Land and Housing Tribunal for I/a/a) ALHAJI SAID MWINYI.....
APPELLANT VERSUS VICTORIA FINANCE..... 1st RESPONDENT MAISALA
ABDI SHAMTE Alias Uncle Shamte....2ND RESPONDENT EVELINE
MMARI..... 3rd RESPONDENT

RULING

Date of Last Order:10.10.2024 Date of Judgmental. 10.2024 T.N. MWENEGOHA, J: This Appeal emanates from the District Land and Housing Tribunal for Ilala, vide Land Application No.206 of 2021, herein after called the Trial Tribunal. The dispute is on a landed property, located at Taliani Street, former known as Mgeule Street, within Dar es Salaam Region. The Decision of the Trial Tribunal was not in favour of the appellant, hence he filed the instant Appeal based on six grounds, as seen in his Memorandum of Appeal. However, for serving this Court's time, the said grounds will not be reproduced in this Ruling, owing to the fact that, the Court raised an issue suo mottu, touching the competence of the entire Appeal. That, i the subject matter of the case before the Trial Tribunal was not properly described. The parties were Ordered to address the Court on the issue, but neither the appellant nor the respondent complied with the Order. Now, as already settled, the suit property must be properly described sufficiently to identify it. But in the case at hand, this rule was not followed by the applicant at the Trial Tribunal. Looking at the Application filed before the Trial Tribunal on the 13th October 2021, the subject matter was described in a way that does not distinguish it with other lands in the locality as the size of the same was not at all provided. A general description of the suit was given instead of specific and definite description as required by law. This is according to Order VII Rule 3 of the Civil Procedure Code, cap 33 R.E 2019, which states as follows; "Where the subject matter of the suit is immovable property, the plaint shall contain a description of the property sufficient to identify it and, in case such property can be identified by a Title number under the Land Registration Act, the plaint shall specify such Title number". In line with the above provision, the applicant at the Trial Tribunal should have included the boundaries and the size of the suit land, as stated in Twapasyaga Yotam Kasalwike versus Elisi Kasanga, Land Appeal No. 08 of 2022, High Court of Tanzania(unreported) and the case of Daniel Dagala Kanuda versus Masaka Ibeho and Others, Land Appeal No. 26 of 2015, High Court of Tanzania at Tabora (unreported). For these reasons,

what the Trial Tribunal did in respect of Land Application No.260 of 2021, was null and void. The fact that the subject 2 matter was not described to the adherence of the law, makes the Decision of the Trial Tribunal to be illegal. The same cannot stand. In the event and basing on the reasons and findings above, I use my powers given under section 43 of the Land Disputes Courts Act, Cap 216, R.E 2019 and proceed to revise and nullify the whole proceedings of the Trial Tribunal, vide Land Application No.260 of 2021, quash its Decision and aside its Orders. Parties are restored to their original position. No Order as costs. T.N.M WENEGOHA JUDGE 21/10/2024 3

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