

TANZANIA / JUDGMENT

19760920 TZHC Mwanza

COURT
TZHCDECIDED
20 September 1976

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UNZi (nc) CIVIL IPPIL NO. 231 ON 195 (From the decision of the district court of iiusc;ia at Husome in Civil ippual No, 92 of 1973 3cfore I.L.

- amoknto, Nod. rend Ngorcme Primary Court Civil Case No. 174 of 1972). Versus !1RWi! LUGii5DI •..... • . ,.... i:CP0iDhIT 'r'flr •p'T itLiGLHG.i, J.: The appellant successfully sued the snond,en't'o father for balance of dowry duo to him as a result of the marriage bett'eon his daughter and the respondent's brother. 1 -to then filed cxc cution, pro':dirigs and attached 20 heads of cattl'3 bcloning to 'the raopond.:nt. He stated that since the respondent wee the son of hisjudgment' debtor end because hi s daughter was married. to the respondent's brother, the respondent had as much responsibility as his father to pay the do;;ryfor 'the brother. The trial court foad that the attached uO't'tlO belonged to tii respondent but it dismissed 'the respondent's objection to 'the ettechthent on 'the ground that he was liable to pay debts owed, by his fthi. The respondent appealed against the trial decision and his appeal was allowed,. The trial court holding that the rcspond.o.it could not be hold responsible for debts owed by his relatives however cloc. 'to him they were. The appellant is appealing against that decision. The trial court clearly misdirected itself on the lecture of proceedings before it. The suit d by 'the respondent was on obj:o'tion nroceeding since he was objecting to the attachment of his ct'tic in satisfaction of a decree in which he was not a. party. It was upon the op1:o1lan't to prove on the balance of probabilities 'that the attached cattle 'belonged to his judgment debts, the respondent's father. He however 'totally failed to adduce evidence to prove that the attached cattle belong0c 1. to the respondent's father. In fact he admitted that ho knew that 10 of the attached cattle belonged to the respondent. Despite all this the trial court did not even order release of 'the IC cattle admitted by'tho appellant to belong to the respondent. The appellant claimed, 'that he was entitled, to attach the respondent's cattle fin" the debt owed by his (apellant's) father. This claim should not have been entertained,. The father is still alive and his sons cannot he compelled to so'ttlo hii deot. He is personally responsible for all 'the dcbtns owed by him. 'The first appellate court therefore rightly allowed the respondent's anpcal. It trans'ped in the course of hearing this appeal 'that the appellant.s son—in—law is adult currently employed as a police oIN'icer. The appellant could not however say why he chose to sue his son—in—law's father instead of the sen—in—law who is gainfully employed. That is however besides the point in this appeal. It suf±ices 'to soy that the appellant totally failed, to prove that 'the

attached cattle belonged 'to his judgment debtor and, the first appellate court rightly allowed. the respondent's appeal. This appeal is accordingly dismissed with costs. The attached cattle should be handed 'back to the respondent, if that has not been done. 20TH SEPT 1976. A. JUL 1 • V1:1 4-. ~ (

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