

TANZANIA / JUDGMENT

Daniel Nada Gobre and Another v Pius Barnabas Etlawe

COURT
TANZLIIDECIDED
21 May 2024

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA IN THE SUB-REGISTRY OF
MANYARA AT BABATI MISCELLANEOUS LAND APPLICATION NO 1361 OF 2024 (Originating
from Land Application No 54 of 2018 in the District Land and Housing Tribunal for Babati at
Babati) DANIEL NADA GOBRE..... 1st APPLICANT SAMWEL NADA
GOBRE..... 2nd APPLICANT VERSUS PIUS BARNABAS
ETLAWE..... RESPONDENT

RULING

14th April and 23d May, 2024 MIRINDO, J.: The applicants, Daniel Nada Gobre and Samwel Nada Gobre, who were successfully sued for a land dispute before Babati District Land and Housing Tribunal have come before this Court for leave to appeal out of time. Their main reason in support of this application to extend time within which to appeal to this Court is that they were not the necessary party to the case before the Tribunal. 1 Before this Court, Mr Joseph Mniko, learned advocate, represented the applicants while the respondent had the services of Mr Abdallah Kilobwa, learned advocate. Mr Mniko, learned advocate, contended that the decision of the trial tribunal consists of illegalities. The applicants were not necessary parties because they were not owners of the land in dispute. The plot belonged to their late father. More specially, the learned advocate stated that the land in dispute in the present appeal was part of the plot that the applicants' father was declared the lawful owner in Land Application No 45 of 2017. In opposition, Mr Kilobwa, learned advocate, argued that the issue of misjoinder was duly determined by the trial tribunal. The land dispute in the instant application, the learned advocate argued, was between the respondent and the applicants. There was no need to sue the applicants' father. Since the applicants' father who was alive but did not object to the proceedings, there was no illegality. After careful re-examination of the judgment of the trial tribunal, I think there is a prima facie case for the plea of res judicata i.e. whether the land dispute was competently dealt with by Babati District Land and Housing Tribunal. 2 On this account, I have come to the conclusion a case has been made for the plea of illegality justifying extension of time within which the applicants may lodge their appeal to this Court. It is hereby ordered that the applicants lodge their petition within forty-five days from the date of this ruling. Each party to bear its own costs. It is so ordered. DATED at BABATI this 21st day of May, 2024 Court: Ruling delivered this

23rd day of May, 2024 in the presence of the applicants in person, their counsel, Joseph Mniko and in the presence of the respondent in person. B/C: William Makori (RMA) present. Right of appeal explained F.M. MIRINDO JUDGE 23/5/2024 3

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