

TANZANIA / JUDGMENT

Land Appeal No

COURT
TANZLII

DECIDED
1 January 2024

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA (LAND DIVISION) AT PAR ES
SALAAM LAND APPEAL NO.14856 OF 2024 (Arising from Land Application No.92 of 2013, of the
District Land and Housing Tribunal for Kinondoni) KHAMIS M.

KIULA..... APPELLANT VERSUS IDDY MOSHI OMARY

MSISI..... 1stRESPONDENT CHARLES

IGONDA..... 2ndRESPONDENT ROSE

LAWRENCE..... 3rdRESPONDENT ATHUMAN

MTORO..... 4thRESPONDENT

RULING

Date of Last Order: 23.10.2024 Date of Judgment: 30.10.2024 T,N. MWENEGOHA, J This Ruling is in respect of an issue raised suo motto against the instant Appeal. That, whether the subject matter of the suit was well described, sufficiently to identify it at the Trial Tribunal. The parties were notified of the said issue and Ordered to address the Court on the same, as it touches the competence of the Appeal at hand. Only the applicant complied with the Order. The counsel for the appellant, Mr. Rajab Mrindoko maintained that, going through the Application specifically paragraph 3 we see that, the address of the suit premise is clearly described. That, the suit premise was stated to be located at King'ongo Area, Kimara Ward in Kinondoni Municipality. Further, that the respondents never challenged the description of the suit land nor did they deny it. i As regard to the size of the suit land, he argued that, the same was mentioned in paragraph 6(a)(i) of the Application that it has the size of two (2) acres and the invaded land has the size of one (1) acre. However, he admitted that, the pleadings (Application) were silent on the boundaries and demarcation of the suit premises. But he insisted that, since the size and location are properly described in the Application, lack of boundary demarcation can be cured by applying the overriding objective principle which require the Court to do away with technical error in dispensation of justice. That, if this Court find that the irregularity is fatal and cannot be cured by overriding objective principle the Court may proceed with quashing the Judgment/ Order and asset aside all proceedings of the Tribunal and direct the matter to be heard afresh after amendment of the Application indicating the boundary and demarcation clearly. Going through the records, I came across the same findings as given by Mr. Mrindoko that, the size and location were well stated, but the boundaries of the suit land was not stated. This is a mistake that cannot be cured by an overriding objective principal. The description given in the Application

before the Trial Tribunal, is what we call a blanket description, because it describe any land at the locality measuring 2 acres, see Daniel Dagala Kanuda versus Masaka Ibeho and Others, Land Appeal No. 26 of 2015, High Court of Tanzania at Tabora (unreported). That is to say, the description was too general rather than specific and definate as required in law. Order VII Rule 3 of the Civil Procedure Code, cap 33 R.E 2019, provides; - "Where the subject matter of the suit is immovable property, the plaint shall contain a description of the property sufficient to identify 2 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". Based on the above quoted provision of the law, I am of the settled opinion that, the description of the suit land as given at the Trial Tribunal, is insufficient to identify it and distinguish it with other lands situated at the same locality. The boulderries and of the suit land should have been stated as given Twapasyaga Yotam Kasalwike versus Elisi Kasanga, Land Appeal No. 08 of 2022, High Court of Tanzania(unreported). For these reasons, I find what was done by the Trial Tribunal in respect of Land Application No.92 of 2013, was null and void as the subject matter was not well described as required in law. In the event and basing on the reasons and findings herein 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.92 of 2013, quash its Decision and aside its orders. Parties are restored to their original position. No Order as costs.

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CASE PAGE	https://chat.esheria.ai/case-law/tanzania/khamis-m-kiula-v-iddy-moshi-omary-msisi-descriptionofimmoveableproperty-tanzlii-2024--6a3ea52d3b1caa9129826d9f

Prepared on 14 October 2026 · Esheria