

TANZANIA / JUDGMENT

leo martini akonaay v valerian peter and another 2024 tzhc 683 8 march 2024

COURT
TZHCDECIDED
8 March 2024

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA IN THE SUB - REGISTRY OF
MANYARA AT BABATI LAND APPEAL NO. 26496 OF 2023 {Originating from Application No 15 of
2023 in the Babati District Land and Housing Tribunal) LEO MARTINI
AKONAAY..... APPELLANT VERSUS VALERIAN
PETER..... 1st RESPONDENT DANIEL
WEMA..... 2nd RESPONDENT

JUDGMENT

20th February and 8th March 2024 MIRINDO J.: Leo Martini Akonaay, sued Valerian Peter and Daniel Wema before Babati District Land and Housing Tribunal early in March 2023. His main case before the Babati Tribunal was for declaration that he was the lawful owner of the suit land. The matter was scheduled for mention on 22nd March 2023 and for hearing on 12th April 2023. For unknown reasons, hearing did not take place on the hearing date even though both parties were present as well as the two assessors. Afterwards hearing was adjourned five times in the presence of both parties for unknown reasons. When parties appeared for 1 hearing on 16th November 2023, one of the respondents was represented Advocate Lundu. The appellant, Leo Martini Akonaay is recorded to have stated on that day that his advocate was absent and apparently, he could not proceed with the hearing. In reply, Advocate Lundu informed the Babati Tribunal that his clients wrote a complaint letter to the effect that the appellant did not intend to continue with the application and was merely disturbing his clients. He asked the Tribunal to “strike off” the application. Upon this submission, the Tribunal struck off the application. On appeal to this Court, the appellant’s main point of complaint was that the Babati Tribunal unfairly struck out his application. The first respondent supported the order of the Tribunal because it was the appellant who failed to proceed with the case. The records of the Babati District Land and Housing Tribunal are patently clear: the five adjournments of the hearing dates were not occasioned by Leo Martini Akonaay. The reasons are best kept secret to the presiding Chairman. The contention regarding the complaint letter alluded by learned counsel Lundu is not supported by the record. There is neither reference to the complaint letter in the proceedings nor does it form part of Tribunal’s record. It is simply inexistent. 2 It follows that the order of the Babati District Land and Housing Tribunal of 16th November 2023 was arbitrary and contrary to the

principles of natural justice. I quash the order “striking off” the application of Leo Martini Akonaay and restore the application of Leo Martini Akonaay before the Babati District Land and Housing Tribunal. I remand the application to Babati District Land and Housing Tribunal for hearing according to law before a different chairperson. The Babati District Land and Housing Tribunal is hereby directed to summon the parties for hearing before it soon after the return of records of appeal from this Court. The appeal is allowed with costs. DATED at BABATI this 6th day of March 2024 F.M. Mirindo JUDGE 6/3/2024 3

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