

TANZANIA / JUDGMENT

Mandao Songa Mandao v Ngoley Village Council and Another

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TANZLIIDECIDED
28 February 2025

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA IN THE SUB-REGISTRY OF
MANYARA AT BABATI CIVIL CASE NO 27269 OF 2024 MANDAO SONGA
MANDAO..... PLAINTIFF VERSUS NGOLEY VILLAGE
COUNCIL.....1ST DEFENDANT THE ATTORNEY GENERAL.....2ND
DEFENDANT

RULING

11th & 28th February 2025 MWIHAMBI, J.: Mandao Songa Mandao has sued the defendants claiming from the defendants a land measuring 22 acres located at Ngoley village, Mwada ward within Babati District, Manyara Region with estimated value of TZS. 50,000,000/=. The defendants have filed an objection on point of law against the suit filed by Mandao Songa Mandao that the suit is pre-maturely instituted for failure to send a copy of the 90 days' statutory notice of intention to sue the Government to the Attorney General and Solicitor General which is in contravention of section 6 (2) of the Government Proceedings Act [Cap. 5 R.E. 2019] read together with section 190 of the Local Government (District Authorities) Act [Cap. 287] as amended by section 31 of the Written Laws (Miscellaneous Amendments) Act, No. 1 of 2020. Mr. Lameck Butuntu, learned Senior State Attorney, representing the defendants, argued that the suit is prematurely instituted because the plaintiff at page 12 of his plaint has alleged to have served the Attorney General and the Solicitor General the 90 days' notice through an EMS receipt while the one attached to the plaint is an electricity payment LUKU receipt. He stated that according to section 6 (2) of the Government Proceedings Act [Cap. 5 R.E 2019], sending a copy of the 90 days' notice to the Attorney General and the Solicitor General is mandatory and failure to meet the said requirement makes the notice incomplete and unqualified to be called a notice. That, the omission makes the suit incompetent. He therefore called upon this Court to strike out the suit and make an order for costs. He also prayed that if the plaintiff intends to come back to court with this matter then this Court may instruct them on proper procedure to follow. In opposition, the plaintiff's counsel, Mr. Paschal Peter contended that the Senior State Attorney does not dispute that the plaintiff served the first defendant and the issue is that the copy was not sent to the 2 Attorney General and the Solicitor General. That, the receipt attached is not of LUKU but a CRDB agent who sent the parcel to the Attorney General and the Solicitor General. Therefore, the

suit is not premature as the Attorney General and the Solicitor General received the said copy of notice and that is why they brought their Written Statement of Defence properly before this Court. He prayed that the preliminary objection be disregarded and dismissed and the main suit to be heard on merit as no provision of law or mandatory procedure has been contravened. For clarity, I will quote section 6 (2) of the Government Proceedings Act [Cap. 5 R.E. 2019]: “No suit against the Government shall be instituted, and heard unless the claimant previously submits to the Government Minister, Department or officer concerned a notice of not less than ninety days of his intention to sue the Government, specifying the basis of his claim against the Government, and he shall send a copy of his claim to the Attorney General and Solicitor General.” From the quoted provision, it is apparent that it is a mandatory requirement of law that a copy of the notice be sent to the Attorney General and the Solicitor General. As argued by the Senior State Attorney, the Attorney General and the Solicitor General were not served with the 3 copies of the notice as the law directs. The statutory notice attached to the plaint does not provide proof of service for the same. Moreover, section 190 (1) (a) of the Local Government (District Authorities) Act [Cap 287] as amended by section 31 of the Written Laws (Miscellaneous Amendments) Act, No. 1 of 2020 directs that a 90 days’ notice must, before the institution of the suit, be issued and served upon the local government authority and its copy be served to the Attorney General and Solicitor General. Upon the said observation, I hold that the suit was prematurely filed for failure to comply with the mandatory requirements of service of statutory notice to sue the defendants. I therefore struck out the suit, with costs, for being incompetent. The plaintiff is at liberty to bring a fresh suit after complying with the law regarding statutory notice to sue the local government authority. DATED at BABATI this 28th day of February, 2025. N. J. MWIHAMBI JUDGE COURT: Ruling delivered today, 28th day of February, 2025, in the presence of Mr. Paschal Peter, Advocate for the Plaintiff and Mr. Nixon 4 Tenges, State Attorney assisted by Mr. Godfrey Jafari, State Attorney for both defendants, and Mr. Fidelis Laurent from Ngolley Village Council. B/C Miss Fatina R. Haymale (RMA) present. N. J. MWIHAMBI JUDGE 5

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CASE PAGE <https://chat.esheria.ai/case-law/tanzania/mandao-songa-mandao-statutorynotice-tanzlii-2025>

Prepared on 12 October 2026 · Esheria