

TANZANIA / JUDGMENT

mohamed makame vs mohamedi others 2014 tzhc 2115 11 july 2014

COURT
TZHCDECIDED
11 July 2014

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IN THE HIGH COURT OF TANZANIA (LAND DIVISION) AT TANGA LAND CASE APPEAL NO 18 OF
2012 MOHAMED MAKAME.....APPLICANT VERSUS. i , MOHAMEDI SEIF & 2
OTHERS..... RESPONDENT

JUDGMENT

H. KALOMBOLA, JUDGE This is an appeal against the decision of the District Land and Housing Tribunal for Tanga in Land Application No 22/2011, where the appellant was dissatisfied and come before this court with eight grounds of appeal. At the hearing, Mr. Chanjarika advocate for appellant, prayed to drop the 3rd and 7th grounds of appeal, and submit on the rest of grounds of appeal altogether. i Therefore Mr. Chanjarika faulted the District Tribunal in not giving weight to appellants evidence which proved that the disputed land is appellant's land, which he bought from the late Bakari Saidi, before Village Government on 11/5/2009. He further submitted, there is no evidence that the 1st respondent r ^ , happened to open a case against Bakari Saidi challenging the said sale and 4 it was decided by Ward Tribunal of Kwale that the sale was lawful. Therefore the appellant was, allowed to continue with construction on the disputed land. The Counsel added, the appellant produced evidence i.e. a letter to effect that the same Ward Tribunal stayed its earlier decision as a result, his house was demolished, following execution of that other decision. He thus found the District Tribunal erred in not giving weight to the evidence before it. As regard to execution of Miscellaneous Application No 3/2010, Mr. Chanjarika found it is illegal as the appellant was not a party to the said application which took place after the first decision. And that the order which was given was for evection and not for demolition as it .was executed 2 che 1st and 3rd respondents who evicted the appellant and demolish the / houses. Mr. Akaro for respondent submitted that the tribunal was correct in its decision. The appellant having ^ppn thpre was that second decision, he ought to have objected the execution i.e. by filing objection proceedings. By way of rejoinder Mr. Ghanjarika insisted the decision of the District Tribunal is incorrect. * , - _ i j t o - 4 # Having considered the submissions”and the record before me, I have noted that the District Tribunal critically evaluated the evidence which was before it. Since the law is very clear that appellate court may interfere with the findings of the Lower Court-in a rare circumstances. It is my settled finding that in the present case, this court has no reason to interfere with the evidence taken in the tribunal. As to the issue of execution, the appellant ought

to have filed objection proceedings. The record shows that the appellant was given 14 days notice to vacate the suit premises but he could not object, hence the eviction. ' For the foregoing reasons, this appeal is devoid of merit, accordingly it is dismissed with costs. It is ordered.

- e v /■•X . H. KALOMBOLA, JUDGE 11/7/2014

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