

TANZANIA / JUDGMENT

19910320 TZHC Mbeya

COURT
TZHCDECIDED
20 March 1991

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- V IN THE HIGH COURT OF TANZANIA AT BUTIYA: V.V (PC) CIVIL APPEAL NO.260, 1978 (From the decision of the District Court of Rungwe District at Tukuyu in Civil Appeal
- N0165 f 1977 and Ipata Primary Court Civil Case No. 35 of 1974 V V Eofore: J.A. Lwaki (2aba, District Magistrate) MWAKILE Versus KETA V V MET • • • • V CH.V ' V . -
- V . T40 Court Lupathisniasod VV the claim of Keta Mwaipaja V of 400 shs. he was claiming from Mwakiyete Mwandembwe being compensated. He filed for a summons obtained in an assault. Keta Mwaipaja appealed to the District Court. The District Court reversed the decision of the Primary Court by ordering that Mwakiyete Mwandembwe should pay compensation of 150 'shs'. That was done on the 27/3/78. In arriving at the assessment of 150 shs.. learned District Magistrate considered the nature of assault, the extent of injuries, pain and suffering experienced by Keta Mwaipaja. Mwakiyete Mwandembwe is - appealing against the decision of the District Court. The facts of the case are briefly as follows. Keta Mwaipaja. and a TANU Youth. Iyegua and Andongoli Mware (10) had gone to seize the cattle of the father of Mwamanda Mwandimbwe the father of the appellant. The seizure was in execution of a court order.. The appellant and his father resisted. the attachment and in the process assaulted Keta Mwaipaja by hitting him with fists. The appellant and his father were subsequently charged at the Lupata Primary.. . . . 1? . •
- V V V 2 - ~ R W Primary Court (vide CR. C. 35/74, tendered in court as exhibit). They were convicted and sentenced, to pay a fine of 50 shs, or 2 months imprisonment in default. Mwamanda Mwandimbwe appealed to the District Court at Tukuyu, His conviction was quashed and sentence set aside. (Vide (PC) CR APPEAL 9/75 of Tukuyu District). The appellant is no evidence that Mwakiyete Mwandembwe the appellant in this case appealed against the conviction and fine imposed by the Primary Court. In this appeal he has alleged that the findings of the District Court on Waa are quashed by the District Court. But I have seen the certified copy of the judgment of the District Court in R, pp 9/75 judgment in respect of 1974 Mwamanda Mwandimbwe alone, There is no allegation or evidence that there was a separate appeal by the appellant Mwakiyete Mwandembwe. That being the case: the learned District Magistrate was justified to award damages as he did. " " - 1978 one dollar was about 17 shs. Now 1. dollar is about 202 shs. Thus means that the award. of 150 shs. 'damages it represents in now equivalent to x 202 shs 0 1,78/3. In view of the above observations the appeal

is diniissed wjth costs bttho appollant will now pay she.1,782/35. Furthermore it is n oted 7 tht the responde nt is reportad tha& a far bck 'as 8/11/86 'and no'dministrator of his 'Estate tas been brought o11 'the record. Judent in this ose will be forwarded to the Pr1ary CoiU't Lupata and the. P. C. M. I&tpata should summon the appellant and ta Administrator of the 19state of the respondent or his heir, and. have the jud.gment read over to thCrn, The P. C. Lafter d-oiing En" -' certify to thp. District Court which in turn shoul& certify to this court,. •.. L.J.R.CHUA JUDGE Judgment delivored. in Oourt this 20th day of 11Iamh, 1991. L 3, R. CHtJA JUDGE ORDER: Judgment to be typed and copies thereof to be forwar'ded to Primary 0 the trialcourt for compliance with the order in the judgme±t. 0/ . L. J. R. CHUA ('fl. JUDGE, AMBEY •0 2/3/91 Qifrima. . A

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