

TANZANIA / JUDGMENT

nzega town council vs dickson mutabuzi mambo harshik tree hotel 2022 tzhc 15194 12 december 2022

COURT
TZHCDECIDED
12 December 2022

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IN THE HIGH COURT OF TANZANIA AT TABORA DC. CIVIL APPEAL NO. 11 OF 2020 (Arising from Nzega District Court Civil Case No. 8/2018) NZEGA TOWN COUNCIL..... APPELLANT VERSUS DICKSON MUTABUZI MAMBO HARSHOK TREE HOTEL..... RESPONDENT

JUDGMENT

Date of Last Order: 21/10/2022 Date of Delivery: 12/12/2022 AMOUR S. KHAMIS, J: In Civil Case No 8 of 2018 of the District Court of Nzega, Nzega Town Council sued Dickson Mutabuzi Mambo t/a Harshok Tree Motel for payment of hotel levy from July 2015 to February 2018. On 28/5/2020 the District Court of Nzega delivered its Judgement dismissing the suit. Aggrieved with the whole Judgement and Decree of the trial Court, Nzega Town Council filed the present appeal on two grounds, namely;

1. That the Hon. Magistrate erred in law and facts by holding that the appellant is not entitled to collect hotel levy to the respondent. 1
2. That the Hon. Magistrate erred in law and facts for failure to critically analyse and evaluate the Appellant's evidence and arrived at unfair decision. Upon being served with the Memorandum of Appeal, Dickson Mutabuzi Mambo t/a Harshok Tree Hotel, filed a reply to the Memorandum of Appeal, thus;
 1. That, the contents of paragraphs 1 and 2 of the appellant's Memorandum of Appeal are collectively vehemently disputed and the appellant is strictly put into strict proof thereof.
 2. That the trial Court did no error in reaching into the said decision as appellant is not entitled to collect hotel levy from the respondent.
 3. That the trial Court considered all the evidence of each party and did not disregard the evidence of the appellant but rather the same evidence was weak to warrant a judgment on the part of the appellant.

4. Further, that the respondent is a Value Tax registered person and is not subjected to pay hotel levy charged by the appellant. Before me, Ms. Esther John Mlayda, learned solicitor, appeared for Nzega Town Council while Mr Langa Mvuna, learned advocate, acted for the respondent. 2 The appeal was disposed of by way of written submissions and parties observed the timeline set by the Court. I have read and considered the parties' rival submissions. However, gone through the record, I observed that this appeal was filed without attaching copy of the decree extracted from judgement of the District Court. In my view, this is fatal in view of the legal requirements outlined in Order XXXIX Rule 1(1) of the CIVIL PROCEDURE CODE, CAP 33, R.E. 2019 which states that: "**..... the memorandum of appeal shall be accompanied by a copy of the decree appealed from and (unless the Court dispenses therewith) of the judgement on which it is founded". 6. The above provision is couched in mandatory form and failure to attach such a decree renders the appeal incompetent. Judgement delivered in Chambers in presence of Ms. Esther J. Mlayda, solicitor and absence of the respondent. 3 4

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CASE PAGE	https://chat.esheria.ai/case-law/tanzania/nzega-town-council-v-dickson-mutabuzi-mambo-ta-harshok-tree-hotel-appealprocedure-tzhc-2022

Prepared on 14 October 2026 · Esheria