

TANZANIA / JUDGMENT

20161021 TZHC Dodoma

COURT
TZHCDECIDED
21 October 2016

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- r IN THE HIGH COURT OF TANZANIA ATDODOMA MISC. LAND CASE APPEAL NO. 122 OF 2014 (From the Decision of the District Land and Housing Tribunal of Dodoma District at Dodoma in Land Case Appeal No. 15 of 2013 and Original Ward Tribunal of Iringa Mvumi Ward in Application No. 30 of 2012) STANLEY SULUTYA APPELLANT VERSUS DICKSON N. MALA YI RESPONDENT 20/10/2016 & 21/10/2016

RULING

Sehel, J. At the hearing of the appeal, after the ex-parte judgment being set aside, Mr. Kalonga learned advocate for the respondent raised a legal point that since the Chairperson of the District Land and Housing Tribunal did not comply with Section 24 of the Land Disputes Courts Act, Cap. 216 then his decision becomes illegal and cannot stand in the eyes of law. He however, prayed that for this Court to make an order for the appeal lodged ~ 1 by the respondent at the District Land and Housing Tribunal to be heard again in compliance with the law. The appellant when asked to respond on the prayer made by Mr. Kalonga, learned advocate, he simply stated that he objects the prayer because the District Land and Housing Tribunal did not do justice to him. He was of the view if it is necessary to start afresh then an order for re trial be made to the Ward Tribunal. Mr. Kalonga re=joined that since the decision of the Ward Tribunal was proper _theh trial·de nova cannot stand. He therefore insisted of the appeal of the respondent to be ordered to start afresh. The only issue that is contentious, after being noted and conceded by both parties that the Honourable Chairman violated Section 24 of the Land Disputes Courts Act, Cap. 216, is whether I should order the appeal lodged by the respohdent at the District Land and Housing Tribunal to be heard again or not. The appellant wished for the case to start afresh at the Ward Tribunal. With due respect for hi.s wishes, as correctly submitted by Mr. Kalonga the decision r~ached by the Ward Tribunal is prope~ 2 as such the Ward Tribunal cannot be ordered to start the dispufe afresh. I understand that the appellant has no confidence with the District Land and Housing Tribunal because he complains that it did not do justice to him. For that reason, I will make the following order that the appeal lodged by the respondent at the District Land and Housing Tribunal be heard again by another Chairman with a different set of Assessors. It is so ordered. DATED at Dodoma this 21 st day of October, 2016. B.M.A Sehel JUDGE Judgment delivered at Dodoma, under my hand and seal of the court, this 21s t day of October, 2016 in the presence of the B.M.A Sehel JUDGE 21/10/2016 3

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CASE PAGE	https://chat.esheria.ai/case-law/tanzania/stanley-sulutya-v-dickson-n-malayi-tribunalprocedure- tzhc-2016

Prepared on 13 October 2026 · Esheria