

TANZANIA / JUDGMENT

YAKOBO SALI SARAGU 222 Edited

COURT
TANZLII

DECIDED
15 August 2024

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA IN THE SUB- REGISTRY OF
MANYARA AT BABATI MISC. APPLICATION NO. 6742 OF 2024 YAKOBO SALI
SARAGU..... 1st APPLICANT TITO SALIMU
MIHAYO..... 2nd APPLICANT JOJI ARAJIGA
JOJI..... 3rd APPLICANT DANIEL A.
BANGA..... 4th APPLICANT CHRISTINA AMMA SAN
KA..... 5th APPLICANT VERSUS TANZANIA FOREST SERVICE
AGENCY..... 1stRESPONDENT SINGIDA DISTRICT
COUNCIL..... 2ndRESPONDENT HANANG DISTRICT
COUNCIL.....3rdRESPONDENT HON. ATTORNEY
GENERAL..... 4thRESPONDENT

RULING

11th July, & 15th August, 2024 D. C. KAMUZORA, J. The applicants have filed the instant application under Order 1 Rule 8 (1) and (2) and section 95 of the Civil Procedure Code [Cap 33 R.E 2019], (hereinafter referred to as the CPC) seeking for this court to be pleased to grant leave for the applicants herein to file a representative Page 1 of 4 suit on behalf of 512 others whose names have been annexed to the affidavit. The application is supported by joint the affidavit sworn by the applicants. On the other hand, the respondents filed a counter affidavit sworn by Mr. Gasper Shao, Principal Officer of the 1st respondent. It is on record that the respondents through Mr. Said Jumanne, learned State Attorney informed this court that, despite filing counter affidavit they are not contesting the application thus, he left the matter for the court to decide. This court ordered the application to be disposed of by way of written submission. The applicants were represented by Mr. Joseph Moses Oleshangay, learned advocate. In his submission in support of the application, Mr. Oleshangay submitted that the applicants are residents of Gorimba village in Manyara region, Handa village in Dodoma region and Domughanga village in Singida region. That, there are numerous persons with common interest intending to sue the 1st, 2nd and 3rd respondents. That, since a representative suit allows one or more persons to sue or defend a suit on behalf of numerous persons, the application be granted for the applicants herein to file a representative suit on behalf 512 villagers with common interest against the respondents. The applicants' counsel argued that, in terms of Order I Rule 8 of the CPC an application for a representative suit it can be granted where Page 2 of 4 the applicants are able to establish that the

intended parties share common interest in seeking relief from the respondent. Reference was made to the cases of Abdala Mohamed Msakandao & 2 others vs City Commissioner of Dar es Salaam & 2 others [1998], Abdallah Mohamed vs Ally Mohamed [1983] TLR 184, Shinyanga Regional Trading Co. Ltd vs National Bank of Commerce [2002] TLR 300 and Kiteria Manezes & 33 others vs Area Engineering Work Ltd & another [1998] TLR 439. He was of the view that, the applicants have fulfilled the requirements of the law thus urged this court to grant the application and allow the applicants to file the suit on behalf of 512 villagers. I have gone through the law, applicants' application and the submission in support of the application. The provision of Order I Rule 8

(1) and (2) of the CPC. Order I Rule 8 (1) under which the present application was brought reads; " Where there are numerous person having the same interest in one suit, one or more of such persons may, with the permission of the court, sue or be sued, or may defend, in such suit, on behalf of or for the benefit of all persons so interested..." [Emphasis added]. The above provision is very clear that, in order for an application under above provision of the law to succeed, it must be established that Page 3 of 4 there are numerous persons having the same interest in one suit. In the matter at hand, there is no dispute that the applicants intend to represent 512 people from three villages of Gorimba, Handa and Domughanga. The list of names of those villagers has been annexed to the applicants' affidavit (annexure "A1"). The said annexure A1, is the minutes for the meeting of villagers discussing about unlawfully move of the respondents to evict them from their lands and burning down their houses. It contains a list of 512 persons who decided to refer the matter to court against the respondents. The above facts establish that there are numerous persons with same interest thus, I am satisfied that the applicants have demonstrated sufficient grounds for the grant of the application. I therefore find the application to have merits and it is hereby granted. The applicants are granted leave to file a representative suit on behalf of 512 others. In the circumstance, I will not make an order as to costs. DATED at BABATI this 15th day of August, 2024. JUDGE Page 4 of 4

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