

TANZANIA / JUDGMENT

MAKOYE RULING

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TANZLIIDECIDED
1 November 2024

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IN THE HIGH COURT OF TANZANIA (MWANZA SUB-REGISTRY) AT MWANZA MISC.
APPLICATION NO. 21382 OF 2024 (Arising from Misc. Application No. 469 of 2003 and Application
No. 254 of 2023 in the District Land and Housing Tribunal for Mwanza) ZAKARIA MAKOYE
CHARLES.....APPLICANT VERSUS FULGENCE JOSEPH
KAMINA.....RESPONDENT

RULING

1st November, 2024 KAMANA, J. When the matter was set for a hearing, Mr. Joseph Mange, learned Counsel for the respondent raised an objection that the name of the applicant was quite different from the name he used in Misc. Application No. 469 of 2023 and Application No. 254 of 2023 in the District and Housing Tribunal (DLHT) for Mwanza. The instant application emanates from the two applications before the DLHT. The learned Counsel amplified that in the two applications before the DLHT, the applicant's name was Zakaria Makoye Charles @Zacharia Makoye Charles whilst in the present application, the applicant goes by the name of Zakaria Makoye Charles. In his view, the difference 1 infringes the principle that the parties' names must appear as they were in the previous proceedings. Responding, Mr. Masunga Masanja, acting under the power of attorney granted by the applicant, was brief as he asserted the omission as a mere clerical mistake. I have pondered the submissions and I am of the considered opinion that the names of the parties must appear as they were during the lower proceedings unless there is a leave of the court for such amendment. In our jurisdiction, courts tend to condone clerical mistakes as to the names of the parties by ordering the amendment of the same. However, in the instant matter, the applicant's other name which was used in other matters that led to this matter was omitted. This in my view is not a clerical mistake but a substantive mistake that cannot be rectified by way of an amendment. Worse, the same omission is reflected in an affidavit supporting the application which in essence is evidence of what is complained of concerning the two applications in the DLHT. For that reason, the application is struck out. No order as to costs. DATED at MWANZA this 1st of November, 2024. 2 KS KAMANA JUDGE 3

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