

**IN THE HIGH COURT OF TANZANIA
AT ARUSHA**

LAND CASE NO. 28 OF 2010

ATHUMAN AMIRI PLAINTIFF

VERSUS

1. HAMZA AMIRI 1ST DEFENDANT
2. ADIA AMIRI 2ND DEFENDANT

RULING

MUGASHA, J.

In Land Case No. 28 of 2010, the plaintiff Athumani Amiri sues the defendants Hamza Amiri and Adia Amiri. The plaintiff claims to co-own with the defendants a house on Plot No. 16 Block "B" Area "F" Levolosi. In terms of paragraph 4 of the plaint, the plaintiff contends;

"That, the plaintiff, the first defendant and the second defendant respectively jointly owns a house on Plot No. 16 Block "W" Area "F" situated at Levolosi Ward, Arusha Municipality as per Judgment delivered by Honourable K.M.M.SAMBO dated 21/04/2010 the same is hereby attached and marked annexure ATH-1 form part of this plaint".

The above referred Judgment in Civil Appeal No. 14 of 2006 originated from Resident Magistrates Civil Case No. 34 of 2004. In Civil Appeal No. 14 of 2006, the appellants (who are defendants in pending Land Case No. 28 of 2010) appealed against the trial Court's decision that is Civil Case No. 34 of 2004 which was in favour of Hamisi Amiri who was granted ownership of house in Plot No. 16 Block "B" Area "F" Levolosi.

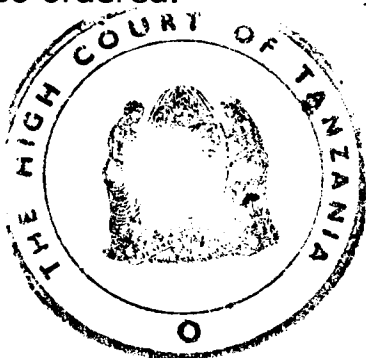
Notwithstanding the finding of the High Court at page 4 of the Judgment that the trial Court did not have Jurisdiction to determine Civil Case No. 34 of 2004, the High Court, Justice K.M.M. Sambo, J at page 7 of his Judgment held;

"In the final analysis and given the reasons stated herein above, I do allow this appeal and proceed to nullify the whole proceedings, judgment and decree in Arusha District Court Civil Case No. 34 of 2004. I declare that in view of the TRANSFER DEED dated 21st day of April, 1981, the disputed plot or property belongs to Hamza Hamisi Amiri, Adia Hamisi Amiri and Athmani Hamisi Amiri".

This is what made me to stay Land Case No. 28 of 2010 in order to seek directions and guidance of the Court of Appeal Tanzania as to whether the High Court in civil appeal No. 14 of 2006 after nullifying the decision of the trial Court, was mandated to determine ownership of the disputed property which is also in dispute in land case No. 28/2010 before this Court.

In view of the aforesaid, I hereby direct the District Registrar to prepare respective record to be placed before the Court of Appeal of Tanzania for determination.

It is so ordered.




S.E. MUGASHA
JUDGE
14/08/2013