

**IN THE HIGH COURT OF TANZANIA**

**AT DODOMA**

**MISCELLANEOUS LAND CASE APPLICATION NO. 109 OF 2016**

*(From the decision of the High Court of Tanzania at Dodoma by  
Kalombola, J in Land Appeal No. 16 of 2015 dated 23<sup>d</sup> February, 2016  
Original Land Case No. 24 of 2015 of the District Land and Housing  
Tribunal of Kondo District at Kondo)*

**JUMA ITEU.....APPLICANT**

**VERSUS**

**MARIAM BAKARI KACHURU.....RESPONDENT**

**RULING**

**23/5 & 06/6/2017.**

**KWARIKO, J.**

Applicant herein lost appeal to the respondent herein before this court KALOMBOLA, J. hence has filed this application for leave from this court to file appeal before the Court of Appeal of Tanzania. This application has been filed in terms of Rule 45 (a) of the Court of Appeal Rules, 2009 GN No. 365 of 2009 and section 47 (1) of the Land Disputes Courts Act No. 2 of 2002. The application is also supported by the affidavit of the applicant. In his affidavit the applicant essentially deponed that the issue to be looked upon by the Court of Appeal is whether this court was right when it quashed the decision of the trial tribunal relying on mere words by the respondent that the disputed land belongs to her late father whereas

the applicant presented a sale agreement to the effect that he bought the land from respondent's father.

During hearing of the application Mr. Mselingwa learned Advocate for the applicant reiterated the affidavit evidence and prayed this application to be granted.

On the other hand although the respondent appeared in court on 14/2/2017 and ordered to file counter-affidavit, if any, within twenty one (21) days but she did not file anything and defaulted appearance since then. Therefore, the application was ordered to be heard *ex-parte* against the respondent.

The issue to be decided is whether this application has merit. Having gone through the applicant's affidavit this court is satisfied that the applicant has shown the issue that he intends to take to the court of appeal to be whether this court was right to decide in favour of the respondent on mere words that the disputed land belongs to her late father while he (the applicant) presented a sale agreement to show that he bought that land from the respondent's father.

Therefore, this application is granted as prayed. No order for costs.

Order accordingly.



A handwritten signature in blue ink, consisting of stylized loops and strokes, positioned above the printed name.

**M.A. KWARIKO**

**JUDGE**

**6/6/2017**

Ruling delivered in court today in the presence of both parties and Ms. Judith court clerk.



**M.A. KWARIKO**  
**JUDGE**  
**6/6/2017**

**Court:** Right of Appeal Explained.



**M.A. KWARIKO**  
**JUDGE**  
**6/6/2017**