IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

MUSOMA SUB REGISTRY

AT MUSOMA

CONSOLIDATED LAND APPEAL NO. 9 & 13 OF 2021

(Arising from the decision of the District Land and Housing Tribunal for Mara at Musoma in Land Application No. 167 of 2016)

JOSEPH JACOB KAHUNGWA ..... APPELLANT

VERSUS

RHOBI KIKARO ..... 1ST RESPONDENT

SELEMAN SALUMU ..... 2ND RESPONDENT

WATAIGO MWITA MGAYA ..... 3RD RESPONDENT

MAGAMBO MWITA MAHARANGE ..... 4TH RESPONDENT

ADAM MBUSURO WAHAME ..... 5TH RESPONDENT

MUHOCHI MARWA ..... 6TH RESPONDENT

KASAWA KISUNTE ..... 7TH RESPONDENT

RHOBI SEBASTIAN ..... 8TH RESPONDENT

JUDGMENT

15th September and 12th November, 2021

F.H. MAHIMBALI, J.:

This is a consolidated land appeal arising from the decision of the DLHT of Mara at Musoma in Land Application no. 167 of 2016. Through this case the appellant Joseph Jacob Kahungwa sued all the respondents.

Firstly, claiming for the declaration that the applicant is the rightful owner of the suit premises. Secondly, an order to compel the respondents to give vacant possession of the suit land to the applicant. Thirdly, an order permanently restraining the respondents from trespassing into the suit land.

The facts of the case can be summarized this way. The appellant who is the son of the late Jacob kahungwa claims to have been owning land in dispute which is the subject of this appeal since 1991. When being granted the said land for mining activities he had met three respondents namely Mwita Mgaya, Mzee Kijiko Adam Mbusiro and Rhobi Sebastian in which the appellant was required to effect compensation to the three respondents whose value is not known.

As he did not effect the said unknown compensation, the three respondents started disposing of some pieces of their lands to the other five respondents. This irritated the appellant which then culminated him to filing land application no.167 0f 2016 at the DLHT of Mara at Musoma.

During the hearing of the suit at the DLHT, James Jacob Kahungwa holding power of attorney of the appellant claimed that the disputed land which is at Sirori, Simba Butiama belongs to the appellant from 1991. He

inherited it from his father Jacob Kahungwa. The said Jacob Kahungwa (deceased father of the appellant), started owning that land in 2000 after the administration procedures were finalized. That by the year 1991, there were only three families occupying the said area: **Mwita Mgaya, Mzee Kijiko Adam Mbusiro** and **Rhobi Sebastian**. Each one of these owned a land measuring 70 x 35 paces. Later, the appellant alleged that said land moved from those three families to Joseph Jacob Kahungwa subject to compensation to be effected by the appellant to these three families. However, the three families who each owned 70x35 paces started expanding their lands by encroaching the remaining land of the appellant. These three people are the 3rd, 5th and 8threspondents in this appeal. This stance is echoed by the testimony of PW2 (Ms Dorka Kitamara – fellow miner to PW1) that the said land was surveyed to the appellant measuring 1500x600 of five acres each and she was given one acre measuring the same size 1500x600. The measuring was done by the Regional and Village authorities and that by that time, only four families existed in that area Mwita Mgaya, Adamu Mbusiro's mother, Rhobi Sebastian or Mzee Brown. The similar evidence was said by PW3 (Mr. Simon Isdory - VEO) that the appellant had complained to his office about four respondents continuing

with development projects while he was already issued with the mining license of the said area. These were: Mwita Mgaya, Adamu Mbusiro's mother, Mzee Brown and Rhobhi Sebastian.

The respondents on the other hand claimed residence and ownership of the said land as back as 1950s and some have acquired ownership of the said land following the death of their parents thus claiming that they were raised there.

Upon hearing of the said suit, the DLHT declared that three respondents namely Seleman Salum, Muhochi Marwa and Kasawa Kisunte are trespassers to the land in dispute, thus they should vacate forthwith. On the other hand, the families of Mwita Mgaya, Adam Mbusuro, Rhobi Sebastian, Rhobi Kikaro and Magambo Mwita Maharange should remain in the land they live until fully compensated by the Appellant.

It is from this decision of the trial tribunal whereby the current two appeals are born. Those three ordered to vacate have appealed against the winner – Joseph Jacob Kahungwa with a total of seven grounds of appeal, namely:

1. That, the trial tribunal erred in law and facts for failure to determine that the 1st and 2nd appellants are bonafide purchasers who bought land in dispute from the 2nd, 3rd, 4th, 5th and 6th Respondents and have been living in for more than a decade.

2. That, the trial tribunal erred in law and facts for failure to determine if the first Respondent is not the lawful occupier of the land in dispute as the appellants are lawful occupiers of the land in dispute.

3. That, the trial tribunal erred in law for ordering the appellants to vacate from the land in dispute without showing the genuine reason why the 1st Respondent (Applicant in the main suit) won the suit.

4. That, the trial tribunal erred in law and facts for failure to evaluate the evidence tendered by parties as the appellants adduced strong and heavier evidence compared to the complainant who is the 1st respondent.

5. That, the trial tribunal erred in law and facts for failure to determine that the 3rd appellant has inherited the land in dispute

from the estate of her uncle one Otaigo whom previously sued the 1st Respondent and declared the owner of the same land in dispute.

6. That, the trial tribunal erred in law and in facts for misdirecting itself for failure to determine that the first Respondent has no locus standi to sue the appellants and other respondents as he has no good title passed to him as he has not yet compensated them.

7. That, the trial tribunal erred in law and facts for failure to show in its pleadings when the trial tribunal and parties visited the locus in quo and there is report of visit contrary to the law.

On the other hand, the appellant in Land Appeal no.9 of 2021 – Joseph Jacob Kahungwa is also aggrieved by the decision of the trial tribunal and has lodged four grounds of appeal as follows: -

1. That, the trial tribunal erred in law for failure to discover and hold that, despite the fact that the 3rd, 5th and 8th Respondents already have their residences near the disputed land when the appellant acquired the land for mining purpose, same expanded their land

and encroached the disputed land and started to sell to some of the respondents.

2. That, the trial tribunal erred in law for failure to hold and give directives to the 3rd, 5th and 8th respondents not to expand further their land toward the appellant mining area.

3. That, the trial tribunal erred in law to hold that the 1st and 4th respondents should remain in the disputed land till compensated without cogent proof regarding their ownership of their land.

4. That, the trial tribunal erred in law and facts for failure to properly analyse and evaluate evidence on record hence arrived at the impugned decision.

During the hearing of these appeals, I made a consolidated order that the two appeals emanating from the same proceedings of the trial tribunal record and the same having been assigned to me, their hearing be done jointly and that its proceedings be taken via Land Appeal no. 9 of 2021. Whereas Mr. Venance Kibulika learned advocate represented the appellant Joseph Jacob Kahangwa, the 2nd, 6th, and 7th respondents were

fully represented by Mr. Emmanuel Gervas, learned advocate. On the other hand, the 1st, 3rd, 4th, 5th and 8th Respondents fended for themselves.

Arguing Land Appeal no. 9 of 2021, Mr. Venance Kiburika learned advocate for the appellant on the first ground of appeal that the trial tribunal erred in law for failure to discover and hold that the 3rd, 5th and 8th Respondents despite being residents near the locus in quo, they however encroached into the land of the Appellant submitted that, as per testimony of the appellant, it is clear that, the DLHT ought to have noted that these three had their plots size 70X35. Instead they then encroached into the appellant's land and started selling the same to the other Respondents (1st, 2nd, 4th and 7th).

In the second ground of appeal, he submitted that the same resembles with the 1st ground of appeal, that though the 3rd, 5th and 8th Respondents had their plots (each 70X35) and that they were supposed to remain there, the DLHT ought to have ordered only to remain at their sized plots (75X35) and not encroaching the appellant's land reserved for mining activities only. For failure by the DLHT to order so, the Respondents kept on encroaching and expanding to date. He submitted further that, all this is done because the DLHT's order is vague. It does not make that restriction.

He thus prays that this Court to order that the 3rd, 5th and 8th Respondents to remain only to their sized plots 70X35. The testimony of the Appellant that the 3rd, 5th and 8th Respondents had each a plot of 70X35 was undisputed.

With the third ground of appeal, it has been submitted that the DLHT erred in law to hold that 1st and 4th Respondents to remain in the land until when dully paid/compensated. This was ordered without there being a cogent proof regarding their ownership of the said land. These respondents as per available testimony, there is no establishment that these 1st and 4th respondents are owners of the said plots as per law. Looking at page 7 of the DLHT's Judgment, it is clear that the trial chairperson was satisfied that part of 1st Respondent's land was within the Appellant's land. He being a trespasser, why then he be compensated. With the 4th Respondent (exparte), his testimony at the DLHT is clear that he built the house at his mother's land which the same was given by her father – in law. He considers this testimony wanting of document. In the absence of cogent evidence, the DLHT erred in law. The law is clear, who alleges must prove on the existence of the alleged facts (section 110 (1) and 111 of TEA). He

submits that the DLHT, in his opinion, erred in reaching the said verdicts as it was for the 2nd, 6th and 7th Respondents.

Fourthly, it has been submitted that the DLHT erred in law and fact for failure to analyze the evidence properly thus reached to an improper finding/verdict. That, save for 3rd, 5th and 8th Respondents, the remaining respondents had no any justification of continuing occupying the said land. The testimony of the appellant is heavier than that of the Respondents, thus he ought to have been given the whole of that land. In **Hemed Said v/s Mohamed Mbilu** (1984) TLR 113 and 114 where it was held amongst others.

> *"in law both parties to a suit cannot tally. But one whose evidence is heavier, is the one who must win"*

Since the appellant had a stronger and heavier case than the respondent, this appeal be allowed with costs, submitted the learned counsel. However, he concluded that in essence the 2nd, 6th and 7th respondents are not concerned with this appeal as he had not appealed against them despite the fact that they have filed their appeal against the appellant.

Responding to the appeal, the first respondent submitted, the land is theirs (family). She is married there and that this land is hers since 1992 and her husband (Ntobo) died in 1997. Thus, the said land is hers and she has not encroached any land of the appellant.

The 3rd respondent submitted that he was born there in 1980. His father died in 2000. He considers this appeal is misplaced as the said land is theirs.

The fourth respondent submitted that he is also born there since 1971. From there on, he has been residing on that land. He wonders that he was sued as a trespasser. The size of their land is $3^3/_4$ acres. The said land belongs to his mother Tereza Mwita Maharanga. He wondered why he was sued while the plot belongs to his mother. He too considers this appeal being bankrupt of any merit.

The 5th respondent on his side submitted that he was born in that land since 1948. His father died in 1958. He has been living there since then and has not expanded the said area as alleged.

The 8th respondent submitted that, he was born in 1954 and that he is continuing living there. The fact that he is encroaching their land he

disputes it and considers it as strange. The appellant is the one encroaching their land instead.

In his rejoinder, Mr. Venance Kibulika submitted that it is true that 3rd, 5th and 8th Respondents were residents there, but they are continuing selling the plot to others by expanding into the appellant's land. With the 1st and 4th Respondents these are not reliable. Considering their testimony at the DLHT (11/02/2020), none of them is in possession of any documentary proof supporting his/her occupation of the said land. For example, the 4th respondent (DW3) had testified that he is born there since 1978, but there is no any documentary proof to support that assertion. In consideration of his submission, he humbly prayed that the appeal be allowed.

In arguing Land Appeal no. 13 of 2021, Mr. Gervas Emmanuel learned advocate for the three appellants while arguing the 1st, 2nd, 3rd and 4th grounds together submitted that the DLHT erred on law in not appreciating/holding that the appellants were bonafide purchasers from the 2nd, 3rd, 4th, 5th and 6th Respondents. As per page 3 of the DLHT's judgment, is clear that the 1st appellant bought the said land from Mr. Wataigo Mwita Magaya at a price of 650,000/=. Since the 2nd and 6th

Respondents were true owners of the land until when they are fully compensated, they had a good title passed to them from 2nd, 3rd, 4th, 5th and 6th Respondents. Equally so, the appellants were also lawful owners as they purchased the said land from the lawful owners and that a good title had legally passed to them. Since the decree of the DLHT is clear that Rhobi Kikaro, Wataigo Mwita Maharage, Adamu Mbusuro Wamahe and Rhobi Sebastian, should remain in the land they live until the Applicant compensates them, the order should extend up to these three appellants as they are bonafide purchasers from the lawful owners. He submitted further that as per DLHT's decree, the first respondent in this Land Appeal no. 13 of 2021 has not been declared by the DLHT as owner of the said land as propagated.

In the fifth ground of appeal, it has been submitted that since the 3rd appellant inherited the land from his uncle Otaigo who previously sued the 1st Respondent, then the suit against him was res-judicata.

In the 6th ground of appeal, it has been argued that the 1st Appellant had no locus standi to sue 2nd – 6th Respondents as the said plot was owned by his father. When then did it pass from his father to him and by what process? There being no such proof, his ownership is not legally

established. As per DW7's testimony, it is clear that up to 1995 there was no any land dispute between these parties. Having mineral license is not an automatic ownership/occupation of the land in dispute, argued Mr. Gervas.

Lastly, on the 7th ground of appeal the Mr. Gervas submitted that the law governing the procedure what to be done at the visit to locus in quo is well elaborated in the case of **Nizar** where Court of Appeal clarified it very well what to do when visiting to locus in quo. He thus, prayed that this Court pursuant to section 43 (1) a and b of LDCA to revise the DLHT's proceedings for failure to observe the proper procedure. With this submission, he prayed that this appeal be allowed with costs.

Countering the appeal as argued, Mr. Venance learned advocate while resisting the appeal submitted that as regards to the fact that the appellants are bonafide purchasers, there ought to be clear documents. None of the appellants provided documents for that. All appellants have failed to establish their claim that they purchased the said land as alleged. Whereas the 2nd and 3rd Appellants have nothing to substantiate as evidence, the 1st Appellant, ought to have provided documentation of purchase from Wataigo Mwita Magaya. During cross examination (DW1), he said he had purchased it at 650,000/= and the documentation was

done in 2011 but could not produce any in court. Neither the witnesses of the said sale/purchase came to court for his testimony. Thus, this fact is not proved.

Responding to the 5th ground of appeal, it has been submitted there is no any documentation in respect of the said inheritance. In the absence of such poof, this being a court to law it can hardly act upon unless there is cogent proof.

That the 1st respondent had no locus standi is not tenable as per ground number six of this appeal submitted the learned counsel (Mr. Venance). The 1st respondent produced evidence of his mining license over the said land (P2 exhibit). The appellants never challenged this at the DLHT. As the said exhibit was not objected at the trial tribunal and this being not a jurisdictional fact, it cannot be raised at any stage. Thus, it is an afterthought issue to raise it at this stage. That there is no declaration that the 1st respondent is the lawful owner of the disputed plot is not true as per trial Tribunal's decree that the appellants should vacate means that they were paving vacancy possession to the 1st Respondent.

With the 7th ground, there is no law that compels trial tribunal/court to record the proceedings at the locus in quo in the court proceedings.

However, failure to show the proceedings at the locus in quo by DHLT, how much did it prejudice the Appellants queried the learned counsel. With regard to the invoking of section 43 (1) (2) of LDCA, this being an appeal it is irrelevant as it is not revision proceedings. As this is an appeal matter, invoking the provision of section 43 (1) (2) of LDCA is not proper as per law as it is not in revisionary powers.

The 2nd Respondent (Rhobi Kikaro) and 3rd Respondent (Wataigo) each one replied submitting that the land is his/hers. The 3rd respondent submits that the land is hers because she was married there by "nyumba ntobo". Upon the death of her husband (nyumba ntobo – a female husband), she is entitled to ownership of it.

The third respondent replied that the 1st and 3rd appellants got their residences from her father. She was just told so when she was young.

The 4th Respondent (Magambo) had nothing to reply. Equally was the 5th Respondent (Adamu) who replied that the appellants occupy their plots lawfully.

The 6th Respondent (Rhobi Sebastian) had nothing to say apart from insisting that he owns his own land.

In his rejoinder submission, Mr. Gervas Emmanuel reiterated his submission in chief and added that as per 1st Respondent's argument, it is undisputed that the 1st appellant purchased/bought the land from 3rd Respondent. He added further that the DLHT's decree has not declared the 1st Respondent as owner of that plot. His ownership would be justifiable upon effecting the lawful compensation to the remaining respondents and so is to the appellants.

He further insisted that on the 6th ground of appeal that the 1st respondent had no locus standi. This being 1st appellate court, it has the duty to step into shoes of the trial tribunal and evaluate the evidence properly.

Lastly, he submitted that as regards the argument that it is not mandatory to record the proceedings at the locus in quo, the cited case is very clear and elaborative. He urged his fellow learned counsel to have a glance at it for advancing his legal knowledge. As far as the applicability of section 43 (1) (2) of LDCA, though this not a revisionary proceedings matter but yet the High Court is dully mandated to do so while determining a land dispute (in appellate level) to invoke the provisions of section 43 of

LDCA for correction whenever any lower tribunal's order or proceedings is at issue.

Having heard the parties in this matter, the main issue for consideration is whether the appeals are meritorious. As it is a consolidated appeal, the issue for disposing this appeal shall be one who is the rightful owner of the disputed land; the appellant or respondents. For purposes of this appeal, Mr. Joseph Jacob Kahungwa shall be referred to as appellant and the rest shall be referred as respondents. This is without prejudice of the position and the rights of the parties in Land Appeal no. 13 of 2021.

In determining the outcome of these appeals, I will consider how each party discharged his onus of proof as far as ownership of the said land is concerned. The law is, who alleges must prove (Section 110 and 111 of the Tanzanian Evidence Act, Cap 6, R.E 2019). This being a civil suit, the standard of proof is on preponderance of probability (section 3 (2) (b) of the TEA).

It is Joseph Jacob Kahungwa who was the plaintiff at the DLHT. His testimony (Through power of attorney donated to James Jacob Kahungwa) is to the effect that he is the miner and holds Mining License of the disputed land which is at Sirori Simba Butiama. That the land belongs

to him from 1991 as he inherited it from his father Jacob Kahungwa. The said Jacob Kahungwa (deceased father of the plaintiff), started owning that land in 2000. However, by the year 1991, there were only three families occupying the said area: **Mwita Mgaya, Mzee Kijiko Adam Mbusiro** and **Rhobi Sebastian**. Each one of these owned a land measuring 70 x 35 paces. Later, the appellant alleges that said land moved from those three families to Joseph subject to compensation to be effected by the appellant to these three families. However, the three families who each owned 70x35 paces started expanding their lands by encroaching the remaining land of the appellant. These three people are the 3rd, 5th and 8threspondents in this appeal. This stance is echoed by the testimony of PW2 (Ms Dorka Kitamara – fellow miner to PW1) that the said land was surveyed to the appellant measuring 1500x600 of five acres each and herself was given one acre measuring the same size 1500x600. The measuring was done by the Regional and Village authorities and by that time, only four families existed in that area **Mwita Mgaya, Adamu Mbusiro's mother, Rhobi Sebastian** and **Mzee Brown.** The similar evidence was said by PW3 (Mr. Simon Isdory - VEO) that the appellant had complained to his office about four respondents continuing with development projects while he was

already issued with the mining license of the said area. These were: **Mwita Mgaya, Adamu Mbusiro's mother, Mzee Brown and Rhobhi Sebastian.**

The interesting issue here is whether this evidence suffices to establish ownership of the said land to the appellant as decreed by the trial DLHT but contested by both parties. In my considered view, the evidence given raises pertinent issues for consideration. Whether the appellant testified and established at the trial tribunal on the issue of ownership of the said plot of land. Secondly, whether he had a good title over the respondents.

On the first issue, it is the principle of law, for a person to institute a suit he/she must have a locus stand. This principle was well stated in the landmark case of **Lujuna Shubi Balonsi Snr vs RegisteredTrustees of CCM [1996] TLR, 203** where it was stated that:

> *"Locus standi is governed by Common Law, according to which a person bringing a matter to court should be able to show that his rights or interest has been breached or interfered with"*

The law however sanctions a person other than a person with a direct interest on the matter to institute a suit on behalf of that other person. That in law, a person may file a suit in person or may do so through his **recognized agent** or an advocate whom he has dully instructed as per Order 3 rule 1of the Civil Procedure Code Cap 33 which provides inter alia that:

1. *"Any appearance, application or act in or to anycourt, required in person, by recognized agent orby advocate or authorized by law to be made ordone by a party in such court may, except whereotherwise expressly provided by any law for thetime being in force, be made or done bv the partyin person or bv his recognized aaent or bv anadvocate duly appointed to act on his behalf...*

2. The recognized agents of parties by whom such appearances, applications and acts may be made or done are-(a) persons holding powers-of-attorney, authorising them to make appearances or applications and to do such acts on behalf of such partiesInterpreting this provision, Mapigano J in Parin A.A. Jaffer & Another VAbdulrasul Ahmed Jaffer & Two Others 1996 TLR 110 held that:

"...power of attorney is a formal instrument by which one person empowers another to represent him or act in his stead for certain purposes. Under Order 3 Rule 2(a) CPC a grantee of such power is competent to ao to law and make application on behalf of the grantor, providing that the instrument gives him such authority, and I am acutely aware that the terms of such instrument should receive a strict construction as giving only such authority as itconfers expressly or bv necessary implication...On the other hand it is imperative under Order 3 Rule 2(a) that all applications, acts and appearances be made or done by the attorney on behalf of and in the name of the principal."

As held in this case, the power of attorney to institute a suit, must as per the above rule be specifically provided. It is in this spirit that in **Hans Nagorsen vs BP Tanzania Limited [1987] TLR 175** the court held that

"authorization to settle a claim is not the same as authorization to appear, apply or do any act in or to any court with the meaning of those words used in Order III Rule 1 CPC"

In the case of **National Agricultural and Food Corporation V. Mulbadow Village Council and Others** (1985) TLR 88 (CA), the Court

of Appeal of Tanzania had an opportunity to decide on the representative suit of 66 villagers where it held

> *"A person may act and represent another person, but* ***we know of no law or legal enactment which can permit a person to testify in place of another.*** *All that P.W.3 could say was that he was told by certain claimants as to the facts of their claims, and what was said was listed I accordingly. That is pure hearsay..."* (Emphasis supplied).

With this in mind, all that was testified by PW1 instead of the appellant is of no any evidentiary value in law. That was purely a hearsay testimony. The appropriate course is to expunge that testimony of PW1 as it is hearsay evidence.

Upon expunge of that testimony, what remains in the record is insufficient to hold that the appellant is the lawful owner of the said land. I say so because of two legal points. One, the appellant claimed to be the heir of the said land from the estate of the deceased Jacob Kahungwa who is his father. There has been no proof of that assertion. In the absence of that proof, he has no locus standi to sue or be sued. Two, the burden of proof regarding the question whether any person is owner of anything to which he is shown to be in possession, is on the person who asserts that

he is not the owner (Section 119 of Tanzania Evidence Act). In this case, it was expected that the appellant should have established that duty at the DLHT that the respondents are not owners of the said land the duty which the appellant failed to discharge. Considering the argument that he was allocated the said land in the year 2000 (if it is true) subject to effecting compensation to the three respondents namely Mwita Mgaya, Adam Mbusuro and Rhobi Sebastian; I am of the firm view that in the absence of full compensation to those original owners, the ownership of land had not passed to the alleged appellant. Otherwise, there is no proof of this assertion too.

In consideration that the said compensation requirement was issued in the year 2000, failure to effect the said compensation in 16 years (from 2000 to 2016), the three respondents were not prevented in making use of their lawful land as the law is when land is taken/acquired for anything, there must be full, fair and prompt compensation to those affected. Otherwise it is unlawful act. Interestingly, what is to be paid as compensation is not even known.

On the other land which is not owned by the three respondents and that the other respondents are said to have encroached it to the appellant's

land, the same is a question of proof/ establishment in terms of section 110 and section 111 read together with section 119 of the TEA whether the appellant is the owner of that land as claimed. A mere possession of mining license is not a conclusive right that you own a particular plot of land. Possession of mining license is one thing, accruing right of land ownership is another. The appellant was duty placed to establish both for him to have a full mandate of the said land, mining license and land ownership.

Acquiring land for public use without full, fair, just and prompt compensation is unlawful as per law (section 4(1) of the Land Acquisition Act, Act no. 47 of 1967, Cap 118 R.E 2019, should it be for a personal or private use. As so far there is no any known compensation done to those who would be affected had the appellant wished to exercise the mining activities in the said area, any attempt to disown their land is unlawful and legally intolerable.

In totality of the appeal, grounds I,2,3 and 4 of Land Appeal no. 9 of 2021 are devoid of merits, whereas grounds of appeal numbers 2,3,4 and 6 in Land Appeal no. 13 of 2021 are meritorious.

In fine, Mr. Joseph Jacob Kahungwa is not having a good title of ownership of land in dispute over the other parties as claimed for lack of establishment. The decision of the trial tribunal in that vein is quashed and set aside for arriving at a wrong decision.

Costs to follow the event.

DATED at MUSOMA this 12th day of November, 2021.

F. H. Mahimbali

JUDGE

12/11/2021

Court: Judgment delivered this 12th day of November, 2021 in the presence of the Venance Kubulika, advocate for the Appellant, Mr. Emmanuel Gervas for 2nd, 6th and 7th respondents and Mr. Gidion Mugoa – RMA.

Right of appeal is explained.

F. H. Mahimbali

JUDGE

12/11/2021