

**THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
(IN THE DISTRICT REGISTRY OF BUKOBA)  
AT BUKOBA**

**MISC. LAND APPLICATION NO. 62 OF 2023**

*(Arising from the High Court of Tanzania at Bukoba in Civil Revision No. 01 of 2023 and Misc. Application No. 315 of 2021 before the District Land and Housing Tribunal for Kagera at Bukoba)*

**THERESPHOL BALIGE ..... APPELLANT**

**VERSUS**

**MEDARD BARTRUMELO ..... 1<sup>ST</sup> RESPONDENT**

**ADVENTINA KAMUGISHA ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

28<sup>th</sup> & 28<sup>th</sup> February 2024

**A.Y. Mwenda J,**

This is a ruling on Preliminary points of objection raised by the respondents.

The said preliminary points of objection read as follows and I quote: -

- i. That this application is inconsistency of law for bad verification clause. (sic)
- ii. That chamber summons and affidavit we have checked there are serious issue. (sic)
- iii. The applicant did not sign the purported affidavit.
- iv. Applicant had no locus stand to sue the respondents in the trial tribunal disputed. (sic) The applicant had interest in the said suit land hence vested with locus stand res

judicature (sic) being the same position and luck of administrator. (sic)

At the hearing of the raised points of objection the respondents appeared in person without legal representation while the applicant hired the legal services from Mr. Dastani Mujaki, learned counsel.

After being invited to submit in support of the raised points of objections, the 1<sup>st</sup> respondent submitted that, the applicant did not sign the affidavit. He further submitted that the applicant's signature differs with the ones he indorsed before the District Land and Housing Tribunal and in his Civil Revision No. 01 of 2023 before this court. He thus prayed this application to be struck out.

Responding to the submissions by the 1<sup>st</sup> respondent, Mr. Mujaki, learned counsel for the applicant submitted that it is true that in the applicant's affidavit, the applicant's signatures differ from each other. He submitted that in the present application, the applicant's signature differ from those indorsed in Misc. Land Application No. 315 of 2021 before the District Land and Housing Tribunal and before this court in Civil Revision No. 01 of 2023. He further submitted that since there is no affidavit that the said signatures are used by the applicant interchangeably then the Preliminary Objection has merits and this application should be struck out without costs.

Having gone through the submissions by both parties this court came up with only one issue for determination which is whether the said preliminary objections are meritorious.

This court went through the records and noted that the applicant's signature in his affidavit differs from the ones appearing in the records of Civil Revision No. 01 of 2023 before this court and those endorsed by the applicant before the District Land Housing Tribunal for Kagera at Bukoba in Misc. Application No. 315 of 2021. Since there is no dispute that the applicant's signature differs from each other then, this court is of the view that the applicant's signature in the affidavit is as good as nothing which renders the said affidavit incurably defective. The back up to this is in the case of DIRECTOR OF PUBLIC PROSECUTION VS DODOLI KAPUFI & ANOTHER, CRIMINAL APPLICATION NO. 11 of 2008 (unreported) (CAT) where it was held as follows,

"Fortunately, there is no dispute here on the fact that the affidavit in support of the notice of motion is defective for want of the deponent's signature thereon. In our respectful opinion, this defect renders the so called affidavit of Mr. Edgar Luoga incurably defective, as correctly contended by Mr. Mushokorwa."

Guided by the above legal position this application is hereby struck out for being incompetent. Each party shall bear its own costs.

It is so ordered.

  
A.Y. Mwenda  
Judge

**28.02.2024**

Ruling delivered in chamber under the seal of this court in the presence of Mr. Dastan Mujaki the learned counsel for the applicant and in the presence of Mr. Medard Batrumelo and Ms. Adventina Kamugisha the respondents.

   
A. Y. Mwendwa  
Judge  
28.02.2024