

**IN THE UNITED REPUBLIC OF TANZANIA
IN THE HIGH COURT OF TANZANIA
(LAND DIVISION)
AT DAR ES SALAAM**

LAND REVISION NO. 20 OF 2017

(Originating from the Decision of Ilala District Land and Housing Tribunal in Appeal No 321 of 2016)

ALFRED CHRISTOPHER JACKSON.....APPLICANT

VERSUS

MNYONGE SULEIMAN.....RESPONDENT

RULING

Date of the Ruling 30th August 2018

R.J. KEREFU, J

The applicant herein has filed this Application under Section 30 (1) (a) of the Magistrate Court Act, Cap. 11 [R.E. 2002] and Sections 79 and 95 of the Civil Procedure Code Act No. 49 of 1966 Cap. 33 [R.E.2002], invoking the revisional powers of this Court against the decision of Ilala District Land and Housing Tribunal in *Land Application No. 321 of 2017*. The Application is supported by an Affidavit deposed by the applicant himself.

On 30th August 2018, when the matter was called for hearing, both parties were absent and I thus decided to peruse the record of the case and noted that on several occasions when the matter was called before the Court parties were not appearing. For instance the matter was called on 24th May

2018, 27th August 2018 and today 30th August 2018. On all those dates parties have not appeared before the Court to prosecute their case. As such the same deserve to be dismissed for want of prosecution.

However, I have further observed that, the applicant's Application is brought under the wrong provisions of the law, hence this Court is not properly moved. It is on record that the applicant intends to invoke the revisional powers of this Court on land matters i.e to revise the decision of the District Land and Housing Tribunal. The provisions of the law cited by the applicant are Sections 30 (1) (a) of the Magistrate Court Act and Sections 79 and 95 of the Civil Procedure Code, which are on the High Court's supervisory powers over Districts and Primary Courts. For the sake of clarity Section 30 (1) (a) of the Magistrate Court Act, provides that:-

"The High Court shall exercise general powers of supervision over all courts in the exercise of their jurisdiction under this Part, and may at any time—

*(a) call for and inspect the record of any proceedings under **this Part** in a **district court or primary court** and may examine the records or register thereof; or*

Other sections cited, like section 79 of the Civil Procedure Code is on the High Court's revisional powers on the subordinate courts and not tribunals. Lastly, Section 95 of the Civil Procedure Code is on the inherent powers of the High Court, which can be invoked only where there are no specific law providing for the matter.

There is no dispute that, the matter before this Court is purely on Land dispute and the applicants intended to invoke the revisional powers of this Court to call for and examine the record of the District Land and Housing Tribunal. Therefore, before jumping into those other laws the applicant was required to peruse the Land Acts and see if there is a lacuna. The provisions of Sections 43 (1) (a) (b) and (2) of the Land Disputes Courts Act, Cap. 216 [R.E.2002] are very comprehensive on these matters. Therefore, this Court is not properly moved to grant prayers sought in the Chamber Summons.


It is a settled law in this Country that, an application brought under wrong provision(s) or non-citation of enabling provision(s) of the law is incompetent and ought to be struck out. There are numerous authorities to this effect and some of them include cases of **Edward Bachwa & 3**

others v. Attorney General & others, Civil Application No.128 OF 2008;
China Henan International Co-operation Group v. Salvand K. A. Rwegasira, Civil Application (2006) TLR 220 and **Citibank Tanzania Limited v. Tanzania Telecommunication Co. Ltd & 4 Others**, Civil Application No.64 of 2009 Court of Appeal of Tanzania, to mention but a few.

Now, since the Application before this Court is incompetent, I do not see the need of keeping the same on record. The remedy for incompetent Application like this one is to be struck out. I therefore declare that, the *Land Revision No. 20 of 2017* is incompetent and is hereby struck out. Since the matter was raised *suo motu* by the Court, I make no order as to costs.

It is so ordered.

DATED at **DAR ES SALAAM** this 30th day of August 2018.



R. J. Kerefu.
JUDGE
30/08/2018