**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**IN THE SUB-REGISTRY OF MTWARA**

**AT MTWARA**

**LAND APPEAL NO. 29 OF 2023**

(Originating from Land Application No. 11/2023 of the District Land and Housing Tribunal for Lindi at Lindi)

**SHAIBU AMINI MNUNGU.....1st APPELLANT**

**MUSSA SALUMU KAZIBURE.....2nd APPELLANT**

**VERSUS**

**EDWARD RAYMOND AMANDUS..... RESPONDENT**

# JUDGEMENT

*15th February & 18th March, 2024*

**MPAZE, J.:**

Edward Raymond Amandus, the respondent herein, filed a suit against Shaibu Amini Mnungu and Mussa Salumu Kazibure at the District Land and Housing Tribunal for Lindi at Lindi (hereinafter referred to as the 'DLHT'), alleging trespass onto his one-acre plot situated in the Likotwa street. Consequently, he requested the tribunal to declare him as the lawful owner of the disputed land and the appellants are trespassers.

He further sought an order from the DLHT to compel the appellants to vacate the disputed land, as well as any costs and other relief(s) that the DLHT may deem appropriate to grant.

After hearing the application, the tribunal declared Edward Raymond Amandus as the rightful owner of the disputed land. Simultaneously, it declared the appellants, in this case, as trespassers on the said land and ordered them to vacate. Furthermore, the respondent was ordered to compensate the appellants for the developments they have made on the disputed land.

The appellants were unsatisfied with this finding, prompting them to appeal to this court with eight grounds of appeal.

Upon reviewing the eight grounds of appeal, I have found that the first and second grounds are similar and will be consolidated. Similarly, the fourth and seventh grounds will be merged accordingly. After combining these with the remaining grounds, we now have six grounds of appeal as follows;

1. The trial tribunal erred in law and fact for failure to consider that the appellants have an interest in the disputed land, having been in possession of it for over twelve (12) years without any interference or disturbance.
2. The trial tribunal erred in fact and law by failing to consider, evaluate, and analyse the evidence provided by the appellant's witnesses and instead deciding in favour of the respondent, who was unable to prove ownership over the disputed land.

3. The trial tribunal erred in law and fact by entertaining a matter that was time-barred.
4. The trial tribunal erred in law and fact by failing to join Mussa Salum Malacho as a necessary party in the dispute.
5. The trial tribunal erred in law and fact by disregarding the opinion of the assessors.
6. The trial tribunal erred in law and fact by receiving a document that was forged.

Based on these grounds of appeal, the appellants prayed the appeal be allowed with costs and that they be declared the lawful owners of the disputed land.

When both parties appeared before the court on the 15th of February, 2024 without any legal representation for the hearing, the appellants informed the court that they would not add anything further but requested the court to consider their grounds of appeal and adopt them as part of their submissions.

Similarly, the respondent also requested the court to consider his reply to the grounds of appeal as part of his submission. Now, in response to the grounds of appeal as listed above, the respondent presented the following responses;

1. The trial tribunal's decision was correct in both law and fact, as it deemed the appellants as mere invitees who could not claim ownership of the land to which they were invited, regardless of the duration of their stay.
2. The trial tribunal was justified in declaring the respondent as the rightful owner of the disputed land, based on the evaluation and analysis of evidence presented, which indicated that the land was allocated to him by his grandfather, as testified by PW4.
3. The matter was not time-barred as the cause of action arose in 2022.
4. The failure to join Mussa Salum Malacho as a party to the dispute was not fatal, as Mussa appeared in the tribunal and provided evidence.
5. The trial tribunal did take into consideration the opinions of the assessors and provided reasons for departing from their opinions.
6. The document tendered was deemed original and genuine, admitted without objection from the appellants.

In light of these responses, the respondent prayed that the decision of the DLHT in Land Application No. 11 of 2023 be upheld, and the appeal be dismissed with costs

Based on the prayers made by both parties and before delving into the grounds of appeal, it is pertinent to provide a brief overview of the case.

It was stated in the DLHT that the respondent is the lawful owner of the disputed land, having been given by his grandfather, Mussa Salumu Malocho (PW4), in the year 2007.

At the time of the allocation, PW4 informed the respondent that the appellants were permitted to reside on the land under certain conditions, including refraining from constructing permanent structures and cultivating permanent crops, the appellants were also duly notified about the new owner of the land.

By the year 2022, a regularization exercise took place, during which the respondents formalized their ownership of the areas. Following the demarcation, three plots were allocated to them, with their names inscribed by land officials, despite being aware that the land belonged to the respondent.

In response to this action, the respondent reported the matter to the local government authority and later pursued the Ward Land Tribunal, but no resolution was reached. This led the respondent to initiate proceedings at the DLHT.

In their defence, the appellants claimed to be the rightful owners of the disputed land, having been given by PW4 Mussa Malocho of his own volition and without any conditions, allowing them to reside and construct houses without any restrictions.

The 1st appellant claimed to have been given the disputed land in 1994, while the 2nd appellant stated that he was allocated it in 1998. Throughout their occupancy, they asserted that they had not faced any disturbances and had engaged in permanent cultivation and well digging without objections from anyone.

The appellants contested the claim that they were merely invitees on the land, asserting instead that they were the rightful owners. They also argued that in 2022, there was a regularization exercise in which their areas were recognized, officially surveyed, and granted ownership titles. With this evidence, they urged the tribunal to dismiss the applicant's application.

However, notwithstanding their prayers, as previously noted, the DLHT regarded them as mere invitees to the disputed land.

Upon examining the evidence presented by both parties at the DLHT, it is an undisputed fact that the original owner of the disputed land is Mussa Salum Malocho (PW4).

The dispute stems from the appellants' claim that the disputed land is their rightful property, assigned to them by PW4 and that they were not merely invitees. However, PW4 maintains that he did assign the land to them as invitees, and the rightful owner who was allocated the disputed land by him is PW1.

From what parties have submitted, the evidence on record, the grounds of appeal raised and the responses to those grounds, the key question to resolve is whether this appeal is meritious.

To determine this, the court will consider the grounds of appeal, and the reply to the grounds of appeal, this would involve analyzing whether the appellants have provided sufficient grounds to challenge the decision of the DLHT and whether the responses from the respondents adequately refute those grounds, through this the court will be in a position to find out whether there are valid reasons to overturn the decision of the DLHT.

In addressing these grounds of appeal, I will start with ground number 3, as it pertains to the jurisdictional aspect by alleging that the matter was time-barred. Therefore, it is prudent to first determine whether the DLHT had jurisdiction to adjudicate the matter before examining other grounds. The resolution of this ground may dictate

whether to proceed with the consideration of other grounds or to conclude the analysis here.

As previously stated, the third ground of appeal challenges the DLHT's jurisdiction for handling a matter that was allegedly time-barred. Regrettably, the appellants did not provide detailed clarification on this issue. Furthermore, during the trial at DLHT, the issue of time-barred was neither raised, pleaded, framed as an issue, nor adjudicated upon.

However, since it is an issue that pertains to the jurisdiction of the DLHT, it can be raised at any stage of the case even in appeal. Numerous cases of this court and the Court of Appeal have affirmed this principle. For example, **Ibrahim Omary v. The Inspector General of Police & Two Others**, Civil Appeal No. 20 of 2009 CAT, **A/S Noremco Construction v. Dar es Salaam Water and Sewage Authority (DAWASCO)** Commercial Case No. 47 of 2009, **M/S Tanzania China Friendship Textile Co. Ltd v. Our Lady of the Usambara Sisters**[2006] TLR 70.

The limitation period to recover land is 12 years as per Section 3(1) of the Law of Limitation Act, Cap 89 R.E 2019, herein referred to as 'the LLA', read together with item 22 of Part I to Schedule of the LLA.

As I mentioned earlier, the appellants did not elaborate on this issue, and no evidence was presented regarding this complaint. However,

the respondent, in his brief response to this ground stated that the application was not time-barred. He argued that the matter was within the time as the cause of action arose in 2022.

Considering the nature of the claim as presented in the trial tribunal, it was evidenced by both parties that the dispute commenced when the appellants registered the disputed land as their property in 2022. Before this registration, there was no dispute. This information is also evident in the evidence provided by the applicant in his application as outlined in paragraph 7 sub-paragraphs iv, v, vi, and viii, which reads;

> *'iv. Kwamba, tangu mwaka 2007 hadi mwaka 2022 Mwombaji amekuwa akilimiliki eneo hilo kihalali bila ya kubughudhiwa na mtu yoyote yule achilia mbali Wajibu maombi katika maombi haya ambao walikuwa wamekaa hapo kutokana na ruhusa kwa mashariti kuwa endapo mwombaji angelihitaji eneo hilo basi wangepaswa kuondoka kumpisha mwombaji alitumie eneo lake kama anavyotaka.*
>
> *v. Kwamba, ilipofika 2022 kulikuwa na zoezi la kurasimisha maeneo katika Mtaa wa Likotwa ambapo Maafisa Ardhi kutoka ofisi za Manispaa ya Lindi pamoja na viongozi wa serikali ya mtaa walifika kwenye eneo lenye mgogoro na kuanza kupima maeneo hayo ambapo kutokana na upimaji huo katika eneo lenye mgogoro vilipatikana viwanja vitatu, ambavyo wajibu maombi walijimilikisha.*

*vi. Kwamba, wakati wa zoezi hilo wajibu maombi pasipo haki wala ridhaa ya mwombaji walijimilikisha viwanja hivyo vitatu vilivyopo kwenye eneo lenye mgogoro kwa kuandikisha majina yao kwa Maafisa Ardhi kama wao ndiyo wamiliki halali wa eneo hilo, hali wakijua fika kuwa eneo hilo linamilikiwa kihalali na Mwombaji.*

*viii. Kwamba, Matendo ya wajibu Maombi dhidi ya Mwombaji, yamemuathiri Mwombaji kwa kiwango kikubwa sana na kwamba kwa wajibu maombi kujimilikisha eneo hilo hali wakijua walifanyiwa hisani tu kuendelea kuwepo kwenye eneo lenye mgogoro kwa mapenzi mema ya kindugu, kumtesa kiafya Mwombaji na kumsababishia matatizo ya msongo wa mawazo n kushindwa kufanya kazi zake za kila siku kwa Amani'.*

Looking at what has been provided in the sub-paragraphs it is clear that the dispute between the parties started in the year 2022. Under these circumstances, I observe that the claim was made within the time, and upon reviewing the matter, I find that this ground lacks substance, thus I dismiss it.

Following the adjudication of ground three of the appeal in the negative, I will now proceed to assess each ground of appeal sequentially. I will proceed with grounds 1, 2, 4, 5, and 6 as presented.

The appellants' contention in-ground one is that the trial tribunal erred in law and fact by failing to acknowledge the appellants' interest in

the disputed land, given their uninterrupted possession of it for over twelve (12) years without any interference or disturbance.

In summary, the appellants argue that the DLHT neglected to recognize them as the lawful owners of the disputed land through adverse possession. In addressing this issue, the DLHT stated the following;

> *'...Kwa ushahidi wa wajibu maombi namba 1 anasema yupo hapo kwenye aridhi ya mgogoro tangu mwaka 1994 hivyo miaka zaidi ya 28 imepita bila bughudha, vilevile mjibu maombi ameshuhudia kuwepo kwenye ardhi yenye mgogoro tangu mwaka 1998 hapakuwa na mgogoro zaidi ya miaka 24 yupo hapo na mgogoro umeibuka 2022 baada ya urasimishaji.* ***Sheria ipo wazi kuwa waalikwa katika ardhi hawawezi kuwa na umiliki dhidi ya mmiliki hata kama angemiliki kwa miaka mingi zaidi.*** *Pia ilihukumiwa katika kesi ya Registered Trustee of Holy Spirit Sisters Tanzania na wenzake 136 dhidi ya January Kamili Shayo Rufaa ya Madai Na. 193/2016, pia kesi ya Magoiga Nyakorongo Mriri dhidi ya Chacha Moroso Saire, Rufaa ya Madai Na. 464/2020* [Emphasis added]

From this observation, the question is whether the trial tribunal was correct in deciding as it did regarding this issue.

I should state right away here that the trial tribunal was correct in reaching this decision on this matter. This is because both appellants, based on their evidence admitted that the disputed land was given to

them by PW4 and they were not mere invitees. The fact that they acknowledged receiving the land from PW4 indicates that the principle of adverse possession cannot be applied in these circumstances.

It was established in the case of **Moses v. Lovegrove** (1952) and **Hughes v. Griffin** (1969) 1 All ER 460, as quoted and approved in the case of **Bhoke Kitangita v. Makuru Mahemba**, Civil Appeal No. 222 of 2017 CAT, that a person claiming ownership of land under the doctrine of adverse possession must cumulatively prove the following;

> *'(a) **That there had been the absence of possession by the true owner through abandonment;***
> *(b) That the adverse possessor had been in actual possession of the piece of land;*
> *(c) That the adverse possessor had no colour of right to be there other than his entry and occupation;*
> *(d) **That the adverse possessor had openly and without the consent of the true owner do** acts which were inconsistent with the enjoyment by the true owner of land for purposes for which he intended to use it;*
> *(e) that there was a sufficient animus to dispossess and an animo possidendi;*
> *(f) that the statutory period, in this case, twelve 12 years, had elapsed;*
> *(g) that there had been no interruption to the adverse possession throughout the aforesaid statutory period; and*

*(h) that the nature of the property was such that in the light of the foregoing/adverse possession would result.'*
[Emphasis added]

From the circumstances described above, it will be noted that one of the duties of the appellants was to prove the absence of possession by the true owner through abandonment. However, no evidence was presented by the appellant to show that they entered the disputed land as it was abandoned by the owner. Instead, they claimed that they were given the land by PW4, who was the true owner at the time. However, PW4 has denied giving them ownership, stating that he only permitted them to use it.

In light of this evidence and explanations above, this is why I began by stating that the trial tribunal was correct in deciding this issue as it did. I see no reason to disagree with it, I find this ground lacks merit, and I dismiss it accordingly

Moving on to the second ground of appeal, where the appellants have raised a complaint that the trial tribunal erred in fact and law by failing to consider, evaluate, and analyze the evidence provided by the appellant's witnesses and instead ruled in favour of the respondent, who allegedly was unable to prove ownership over the disputed land.

Before delving into the discussion of this ground of appeal, it is important to emphasize that it is a well-established legal principle that whoever seeks a court to render judgment in his favour must prove the existence of the relevant facts. This principle is enshrined in sections 110(1), (2), and 112 of the Law of Evidence Act, Cap 6 R.E 2022.

The provisions impose the burden of proof on the party seeking judgment in his favour to establish the facts upon which his legal rights or liabilities depend.

In the case of **Abdul Karim Haji vs. Raymond Nchimbi Alois & Another**, Civil Appeal No. 99 of 2004 (unreported), the Court of Appeal held that;

> '.... *it is an elementary principle that he who alleges is the one responsible to prove his allegations.'*

Also, in the case of **Anthony M. Masanga vs. Penina (Mama Mgesi) & Lucia (Mama Anna)**, Civil Appeal No. 118 of 2014 (CAT) (unreported) where it was further held that the party with legal burden also bears the evidential burden on the balance of probabilities.

In the present case, therefore, the burden of proof at the required standard of the balance of probabilities lay upon the respondent who alleged to be the rightful owner of the disputed land.

On their part, the appellants contend that this duty was not fulfilled, and they hold the view that if the DLHT had analyzed and evaluated the evidence thoroughly, it would not have decided in favour of the respondent.

Following this complaint, I thoroughly examined the DLHT judgment to determine whether the tribunal indeed failed to evaluate and analyze the evidence as alleged by the respondents

Upon careful review of the DLHT judgment starting from page 3 of the typed judgment, the trial chairman began by acknowledging the principle that the party with stronger evidence prevails in a case. Subsequently, from pages 4 to 8 the chairman continued to analyze the evidence presented by both parties to determine the rightful owner of the disputed land.

After a thorough examination of the evidence from both sides, on pages 6 to 7, the trial chairman stated;

> *'Hivyo kwa Ushahidi uliotolewa na pande zote mbili, imethibitishwa katika uiano wa mizani kuwa muombaji alipewa ardhi yenye mgogoro tarehe 6/1/2007 na babu yake aitwaye Mussa Malocho hati ya Makabidhiano ambayo ni kielezo M-1 imeeleza na kuonyesha hayo...*
> *Kwa Ushahidi wa wajibu maombi namba 1 na 2 walishuhudia kuwa wamepewa maeneo na mzee Mussa Malocho waaishi*

*yawe yao lakini aliye wapa ameshuhudia yeye aliwaazima tu hakuwapa hivyo wajibu maombi hawana Ushahidi kuthibitisha kweli walipewa na si waalikwa katika eneo la mgogoro kwa kuwa muhusika wa kutoa maeneo yupo na kupinga kuwapa maeneo hayo yawe yao ya kudumu...'*

With these words, and upon reading from page 3 to 7, it is evident that the trial chairman thoroughly evaluated and analyzed the evidence presented by both parties before he declared the respondent to be the rightful owner of the disputed land.

As a first appellate court, I have also carefully examined, evaluated, and analysed the evidence. I have observed that in their testimony, the appellants merely stated that they were given the disputed land by PW4, but they did not specify how it was given to them, whether as a gift or for love and affection.

In Tanzania, one can acquire land through different modes such as by government allocation, purchase, gift, or inheritance. Therefore, it was expected the appellants, since they claimed PW4 gave them the disputed land, to provide details on how it was given to them.

On the other hand, the respondent on his part was able to produce a document which was received and marked as Exhibit M1 without objection from the appellants. However, the appellants did not provide

any documentary evidence to prove their ownership apart from their mere words.

Since the appellants lacked any evidence apart from their oral testimony, it is plain that they failed to prove that they were the rightful owners of the disputed land. Therefore, the DLHT was correct in declaring the respondent as the rightful owner of the disputed land after considering the evidence from both sides. Hence this ground as well is unfounded.

Regarding the fifth ground, where the appellants complained about the trial tribunal's failure to join Mussa Salum Malacho as a necessary party in the dispute, in dealing with this complaint it is important to understand what a necessary party mean.

Who is a necessary party has been defined in the Black's Law Dictionary, 8th Edition, as;

> *'a party who, being closely connected to a lawsuit should be included in the case if feasible, but whose absence will not require dismissal of the proceedings.'*

The Court of Appeal in the case of **Tang Gas Distributors Limited v. Mohamed Salim Said & 2 Others**, Civil Application for Revision No. 68 of 2011 (unreported) when considering circumstances upon which a necessary party ought to be added in a suit stated that;

> *'...an intervener, otherwise commonly referred to as a NECESSARY PARTY, would be added in a suit under this rule*

*...even though there is no distinct cause of action against him/ where: -*

*(a) NA*

*(b)* ***his proprietary rights are directly affected by the proceedings and to avoid a multiplicity of suits, his joinder is necessary s****o as to have him bound by the decision of the court in the suit* [Emphasis added].

Again, in **Abdullatif Mohamed Hamis v. Mehboob Yusuf Osman and Another**, Civil Revision No.6 of 2017 (unreported), when confronted with a similar situation, the court stated that;

*'The determination as to who is a necessary party to a suit would vary from case to case depending upon the facts and circumstances of each particular case. Among the relevant factors for such determination include the particulars of the non-joined party, the nature of relief claimed as well as whether or not, in the absence of the party, an executable decree may be passed.'*

Relying on the cited case above, it can be observed that, a necessary party is one whose presence is indispensable to the constitution of a suit and in whose absence no effective decree or order can be passed.

The question then arises; Was Mussa Salum Malacho, the original owner of the disputed land, a necessary party?

Regarding the evidence provided by both parties, there is no dispute that Mussa Salum Malacho was the rightful owner of the disputed land.

However, the evidence also showed that ownership had already transferred from him to the respondent. In this context, it cannot be said that PW4 was a necessary party as he no longer had any interest in the land.

Moreover, PW4 appeared as a witness, which suffices for someone who has no interest in the disputed land. Alternatively, and without prejudice to the above reasoning, the appellants had the opportunity to seek leave from the tribunal to join PW4 if they believed him to be a necessary party and not, to bring a complaint to the DLHT for failing to include PW4 as a necessary party.

Given these considerations, I find that this ground also lacks merit and therefore it is dismissed.

Moving on to the sixth ground of appeal, the appellants complain that the trial tribunal erred in law and fact by disregarding the opinion of the assessors.

In examining this ground, I turned to the Land Disputes Courts Act, Cap. 216, RE 2019 (referred to herein as the LDCA), and its regulations, the Land Disputes Courts (The District Land and Housing Tribunal) Regulations, 2003, to ascertain their stance on the opinion of assessors.

Section 23(1) and (2) of the LDCA states that the District Land and Housing Tribunal must be presided over by a chairman who sits with not less than two assessors. The section reads as follows;

> '*The District Land and Housing Tribunal established under Section 22 shall be composed of one chairman and not less than two assessors*; and
> (2) *The District Land and Housing Tribunal shall be dully constituted when held by a chairman and two assessors who shall be required to give out their opinion before the chairman reaches the judgment*'.

Likewise, Regulation 19 (2) states that;

> '19 (2) *Notwithstanding sub-regulation (1) the chairman shall, before making his judgment, require every assessor present at the conclusion of the hearing to give his opinion in writing and the assessor may give his opinion in Kiswahili after the assessors' opinions, the chairman is obliged to consider them.*'

Nevertheless, the chairman is not bound to follow such an opinion this is by section 24 of the LDCA which provides;

> '*In reaching decisions, the chairman shall take into account the opinion of assessors but shall not be bound by it, except that the chairman shall in the judgment give reasons for differing with such opinion*'

Upon examining what the law stipulates, I revisited the judgement of the DLHT to ascertain whether he adhered to the legal requirement. I noted from the typed proceedings dated 17th August, 2023 that the opinion of the assessors was read out and explained to the parties.

On page 10 of the judgment, the trial chairman provided reasons for disagreeing with the assessors' opinion, He stated;

> *'kwa uchambuzi na sababu nilizo toa hapo juu, sikubaliani kabisa na maoni ya wajumbe wote wawili Bi Akinae na Mzee Jumaa walioshiriki katika shauri hili na maoni yao walisomewa wadaawa tarehe 17/7/2023 na kutoa maoni kuwa eneo la mgogoro ni mali ya wajibu maombi kwa kukaa muda mrefu bila bughudha* ***nimetofautiana nao kwa sababu wajibu maombi walikuwa waalikwa tu katika ardhi yenye mgogoro hata kama wangekaa miaka mingi hawawezi kupata umiliki wa ardhi waliyo*** **alikwa'**[Emphasis added]

It is clear from this passage that the trial tribunal provided reasons for diverging from the assessors' opinions, as required by the law outlined in section 24, where the chairman is not bound by the opinions of assessors, he only is required to provide reasons for disagreeing with them, which is precisely what the trial chairman did. Based on these explanations, I also find that this ground is unfounded and therefore dismissed.

Lastly, the appellants had faulted the trial tribunal for accepting a forged document. In this regard, the appellants did not specify which document they were complaining about as forged documents.

Even after I revisited the proceedings of the case to see if there was any instance where a document was presented by the respondent and they objected to its admission on the grounds of forgery, I did not find any such occurrence.

What has been noted in the application filed in the DLHT, the respondent attached three documents to support his claim. These documents were tendered and admitted during the trial without any objection from the appellants.

I examined the written statement of defence by the appellants to see if they raised any issues regarding the attached documents. However, in their response, they did not raise the issue of forgery.

I would like to emphasize here that any issue not raised before the trial tribunal unless as mentioned above, may be a jurisdictional issue that can be raised at any time. The issue of forgery, as raised here, was not addressed during the trial hence bringing it in this appeal was misplaced or in other words can be considered as an afterthought.

In the case of **Makori Wassaga v Joshua Mwaikambo & Another** [1987] T.L.R 88, the Court stated that;

*"A party is bound by his pleadings and can only succeed according to what he has averred in his plaint and proved in evidence; hence he is not allowed to set up a new case."*

The issue of forgery having not been raised by the appellants in their pleadings cannot therefore be determined by the court. After all, forgery is a criminal act which cannot be proved in a civil case. In **Eupharacie Mathew Rimisho t/a Emari Provision Store & Another v Tema Enterprises Limited & Another**, (Civil Appeal No. 270 of 2018) published on the website, www.tanzlii.org [2023] TZCA 102 the Court stated;

*'Without prejudice to the aforesaid, even if the signatures were forged as alleged, it was incumbent on the appellants to act promptly, invoke other remedies by reporting the matter to the Police because all along, and before filing the joint written statement of defence the appellants had knowledge on the existence of exhibit P2 which was annexed to the plaint. In the circumstances, the appellants' inaction to invoke remedies under criminal justice leaves a lot to be desired as correctly found by the learned trial Judge.'*

Guided by this authority, it is obvious that the issue of forgery deals with criminality, and therefore, it should have been addressed in a criminal case, not a civil case as raised here. I thus find this ground has no merit. Consequently, it is hereby dismissed.

In conclusion, I find no merit in this appeal. The findings of the DLHT were correct both in terms of law and fact, and therefore warrant no any interference. As such, I refrain from altering it. Consequently, the appeal as a whole lacks merit and is hereby dismissed. Given the nature of this matter, no costs are awarded.

It is so ordered.

**Dated** at **Mtwara** this 18th day of March 2024.

**M.B. MPAZE**

**JUDGE**

**Court:** Judgment delivered in the presence of both appellants in person and in the presence of the respondent.

**M.B. MPAZE**

**JUDGE**

**18/3/2024**