

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

**MISC. LAND APPLICATION NO. 57 OF 2020**

(Arising from the Judgment of the High court of Tanzania at Dodoma (Madam Judge Mansoor, L) dated 29<sup>th</sup> July, 2020 in Misc. Land Appeal No. 86 of 2019, from Land Application No. 24 of 2019 of the District Land and Housing Tribunal for Manyoni; original the decision of Chikuyu Ward Tribunal in Land case No. 06 of 2018)

**MELIAN HOYA ..... APPLICANT**

**VERSUS**

**NCHEMBI MAKENZA ..... RESPONDENT**

**RULING**

*16/11/2021 & 30/11/2021*

**MASAJU, J**

The Applicant, Melian Hoya, vide a Chamber Summons Application made under Section 47 (3) of the Land Disputes Courts Act [Cap 216] seeks the Certificate on Point of law to appeal to the Court of Appeal of Tanzania against the decision of the Court in Miscellaneous Land Appeal No. 86 of 2019 which was decided in favour of the Respondent, Nchembi Makenza. The Application is supported by an Affidavit sworn by the Applicant herself. In Reply, the Respondent filed Counter Affidavit to object the same.

During the hearing of the Application on the 16<sup>th</sup> day of November, 2021, the Applicant was represented by Mr. Yuaja Barakiriza, the learned counsel, while the layman Respondent appeared in person.

Submitting in support of the Application, the Applicant prayed to adopt the Chamber Summons which highlights the point of the law, as well as the Affidavit thereof which gives the background and reasons for the Application to form part of his submissions in support of the Application. The Applicant submitted that the Notice of Appeal to the Court of Appeal has been annexed to the Affidavit. That, since according to paragraph 5 of the Counter Affidavit the Respondent does not contest the Application, the uncontested Application be granted accordingly. On his part, the Respondent supported the Application in the Court. That is what was shared by the parties in the Court.

In the Chamber Summons, the Applicant highlighted the points of law to be considered by the Court of Appeal to be;

- i. Whether the 2<sup>nd</sup> Appellant court was right in law in basing its decision wholly on the evidence of the Respondent while leaving that of the Applicant unevaluated and unanalyzed.*
- ii. Whether the letter by the Village Executive Officer was sufficient cogent evidence to prove applicant's son has good tittle than Applicant and latter sold it to the Respondent*
- iii. Whether the High Court had powers to overturn the concurrent findings of arrive at its own conclusion upon which its decision has rested."*

The Court after going through the raised points of law and the record of proceedings is of the considered opinion that the said points of law are worthy of consideration by the Court of Appeal of Tanzania. Thus, it would be just for the Court to grant the Application so that the Applicant can lodge her intended Appeal, if any, to the Court of Appeal of the United Republic of Tanzania so as to pursue her rights, if any, accordingly.

That said, the Application is hereby granted. The parties shall bear their own costs.



A handwritten signature in blue ink, appearing to read "George M. Masaju", with a long horizontal stroke extending to the right.

GEORGE M. MASAJU

**JUDGE**

30/11/2021