

**IN THE HIGH COURT OF TANZANIA**

**AT DODOMA**

**CIVIL REVISION NO. 4 OF 2019**

*(Arising from Matrimonial Cause No. 1 of 2018 at Manyoni District Court)*

**FATUMA M. RAMADHANI .....APPLICANT**

**VERSUS**

**ALLY M. JUMA .....RESPONDENT**

*10/3/2020 & 4/5/2020*

**RULING**

**MASAJU, J**

This is an Application for Revision of the proceedings of Matrimonial Cause No. 1 of 2018 from the District Court of Manyoni. The Applicant being Fatuma M. Ramadhani and the Respondent, Ally M. Juma. The Application was filed in the Court following the trial Magistrate's seeking for guidance after the Respondent's learned counsel notified the trial Court that the Applicant's learned counsel audience in the trial Court was questionable. The Applicant's learned counsel, Mr. Heri Mlowezi, conceded and explained that him being an advocate practising in Zanzibar, he had no permit from the Chief Justice of the Judiciary of United Republic of

Tanzania to practice in mainland Tanzania. He thus prayed the trial Court to withdraw the case with leave to re-file the same.

The Court summoned the parties to appear and address the Court on the Application. When the Application was heard in the Court on the 10<sup>th</sup> day of March, 2020 both parties appeared in person and submitted that they pray the Court not to nullify the trial Court's proceedings and order trial *de novo* but rather to allow the trial Court deliver judgment since both parties had already closed their cases. That, they had incurred costs of engaging their Advocates. The Respondent added that since he is a layman he had no idea that his advocate has no qualification to practise in mainland Tanzania, Manyoni specifically.

That is what was submitted by parties in the Court.

There is no dispute that the Respondent's learned counsel had no qualification to represent the Respondent in trial Court. Section 8 (1) (b) (ii) of the Advocates Act, [Cap 341] provides for requirement and manner of the Advocate practising in Zanzibar to apply to the Chief Justice for him to be admitted and enrolled as Advocates qualifying to practise in Mainland Tanzania. In this matter, the learned counsel for the Respondent

represented his client without completing the right procedure for admission and enrollment of advocates who can practise in Mainland Tanzania. It came to the notice of the trial Court when the matter had been scheduled for judgment.

Section 41 (1) of the Advocates Act, [Cap 341] provides for the restriction of unqualified person not to act as advocates in any Court of law. Section 41 (2) of the Advocates Act, [Cap 341] provides for the sanctions thereto. However, the provision does not state that the unqualified person's act of representation shall affect the proceedings of the case tried under representation of unqualified person, but rather the provision deals with the unqualified person thereto.

The parties in the Application in the Court has no dispute regarding the trial proceedings and the Respondent's representation in the trial Court.

Section 44 (1) (b) of the Magistrates' Courts Act, [Cap 11] confers the Court with revisionary powers, however, with the above findings the Court has no reason to revise the trial Court's proceedings. The Court therefore orders the trial Court to proceed with the case to its finality save

that Respondent shall not have the representation by the said unqualified person. The parties shall bear their own costs.



GEORGE M. MASAJU

**JUDGE**

4/5/2020