

H/e Iringa

IN THE HIGH COURT OF TANZANIA

AT SONGEA

(PC) CIVIL APPEAL NO. 14 OF 2007

TUNDURU DISTRICT COURT CIVIL CASE NO. 12 OF 2006

ORIGINAL MLINGOTI PRIMARY COURT CIVIL CASE NO. 17 OF 2006

EMERITH MBAWALA APPELLANT

VERSUS:

ROGERS LIGANGA RESPONDENT

4/11/2008 HEARING CONCLUDED

19/3/2009 JUDGMENT DELIVERED

J U D G M E N T:

UZIA, J.

This is an appeal from the decision of the District Court, Appeal No. 12/2006. Originating from Mlingoti Primary Court, before J.B. Chombo – Primary Court Magistrate.

The appellant was dissatisfied by the decision of the Courts below. She has preferred the appeal to this Court. The background of the case giving rise to this appeal is as follows:-

The appellant's husband entered into contract of tenancy with the respondent, one Rogers Liganga. Before he entered in the suit premises, the appellants husband incurred costs for rehabilitation and installation of the electricity to a tune of shs. 900,600/=. The appellants husband died, her wife, went to the Court of law to claim Shs. 900,600/=. The Primary Court Magistrate dismissed the suit, dissatisfied, the appellant

appealed to the District Court, the appeal was also dismissed. She has filed on appeal to this Court challenging the decision in the Courts below, Mr. Waryuba, who represented the appellant advanced three main reasons,

- (1) The trial court lacked jurisdiction, because it was a land dispute therefore it was governed by the Land disputes Act.
- (2) That the District Court erred in Law and fact by holding that the appellant lacked locus standi to file a suit claiming rehabilitation costs of the house while she claimed her late husbands outstanding debt.
- (3) That the District Court erred in law and fact when it held that the Appellant did not prove the costs of rehabilitation of the house and installation of electricity of T.shs. 900,600/= as there was a contract of repair and installation of electricity.

There are two issues which this court would like to resolve.

According to Judge's minute in this appeal, the Judge In-charge in admitting the case she noted that the District Registrar should admit the appeal in order to consider whether the matter fell under the land disputes Act.

Secondly whether the plaintiff had locus-standi.

Going by the record, I noted that the issue of jurisdiction was very important. If the Court entertains the case without jurisdiction is the most serious matter. For that matter, I will start with the issue of Jurisdiction. The land dispute courts Act (Cap. 216 RE. 2002) Section 3(c) clearly gives powers to the District land and Housing Tribunal to

determining land disputes in a given area, and section 4 of the Act, excludes Magistrates Courts to determine such issues.

From the foregoing, the Primary Court Magistrate at Mlingoti had no jurisdiction of entertaining and hearing this suit.

Being the issue of Jurisdiction. I dismiss the Appeal. Due to the nature of Appeal I do not order costs of Appeal.


L.M.K. UZIA

JUDGE

19/3/2009

LMKU/PJL.