

IN THE HIGH COURT OF TANZANIA

AT MWANZA

MISC. LAND APPLICATION NO. 229 OF 2017

(Arising from the High Court at Mwanza in Land Appeal No. 123 of 2015; Original Land Application No. 17 of 2014 in the District Land and Housing Tribunal).

GEITA GOLD MINING LIMITED.....APPLICANT

VERSUS

1. TWALIB ISMAIL

2. ANDREA HASSAN IKOZA

3. HAMIS MGANJA

4. CHRISTOPHER TARIMOERICK

.....RESPONDENTS

Ruling

06/11/2018 & 03/01/2018

Gwae, J

Dissatisfied with the decision of this court (**Ebrahim, J**) dated 13th October 2017, the applicant filed this application under section 47 (1) of the Land Courts Act, Cap 2016 Revised Edition 2002 (Act No. 2 of 2002) seeking an order of this court granting him a leave to file an appeal to the Court of Appeal of Tanzania.

This application is supported by an affidavit of one **Elizabeth Karua**, the learned counsel for the applicant whose essence is to the effect

that the applicant who sued the respondents was able to prove her case to the standard required by the law unlike the respondents whom he named to be trespassers and therefore eligible for being evicted from the suit land.

This application was argued by way of written submission as it was prudently observed that the respondents had not secured an advocate, the parties' written submissions were filed pursuant to this court order dated 10th October 2018.

I have carefully looked at the judgment subject of the intended appeal and submissions of both parties and I have observed that in the proposed grounds of appeal appearing in the applicant's affidavit, there is an arguable appeal as opposed if the application was for certificate on points of law. My finding is fortified by judicial decision in In **Harban Haji Mosi and Another v Omar Hilal Seif and Another**, Civil Reference No. 19 of 1997 (unreported-CAT) it held that:

"Leave is grantable where the proposed appeal stands reasonable chances of success or where, but not necessarily, the proceedings as a whole reveal such disturbing features as to require the guidance of the Court of Appeal. The purpose of the provision is therefore to spare the Court the specter of unmeriting matters and to enable it to give adequate attention to cases of true public importance".

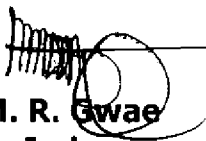
See also the decision of this court cited by the applicant's counsel in **Swiport Tanzania Limited and another vs. Michael Lugaia**, Civil Appeal No. 119 of 2010

In this application, the intending appellant has raised the grounds of the intended appeal, which justify me to grant it.

All said and done, the applicants' application for leave to appeal to the Court of Appeal is granted, Costs of this application shall follow the event.

It is so ordered




M. R. Gwae
Judge
03/01/2019