

IN THE HIGH COURT OF TANZANIA

IN THE DISTRICT REGISTRY

AT MWANZA

MISC. LAND APPLICATION NO. 42 OF 2020

(Originating Land Appeal No. 3 of 2020)

CHAKUA AHMEDAPPLICANT

VERSUS

JOYCE GIDIONRESPONDENT

REASONS FOR THE DECISION

11 & 25/06/2020

RUMANYIKA, J.:

When, with respect to the decision of 3.4.2020 the application under Section 47 (3) of Cap 216 RE. 2019 for a certificate on points of law was called on for hearing on 11/6/2020, Mr. J. Mushobozi learned counsel for Joyce Gidion (the respondent) readily supported it. Mr. A. Nasimire learned counsel appeared for Chakua Ahmed (the applicant). Following the counsel's concession I granted the application without costs but I reserved reasons therefor. Here are the reasons;


A summary of facts deposed in the supporting affidavit of Chakua Ahmed would tell that subsequent to the PC appeal, upon receiving copies of the impugned judgment and decree dated 3/4/2020 the applicant lodged a notice of appeal and he requested for copy of proceedings for

appeal purposes then he filed the instant application for three (3) points upon which the certificate is sought; The points are reproduced as under:-

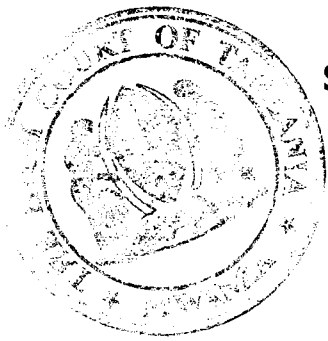
- (a) Whether a sale agreement which does not bear the requisite stamp duty could be lawfully admissible in evidence.
- (b) Whether unstamped sale agreement conferred ownership of the suit land on the respondent.
- (c) Whether non joinder of a necessary party was nonfatal to proceedings.

The pivotal issue is whether the above mentioned points of law are worth to be certified for consideration by the highest fountain of justice.

I entertain no doubts that purely the first two are points of law but point number (c) no, because it is settled law and there is, on that one unbroken chain of authorities that misjoinder of or non joinder of the parties for that matter should not defeat ends of justice therefore it vitiates no proceedings (See Order I Rule 9 of the Civil Procedure Code Cap 33 RE. 2019) points (a) and (b) therefore are certified as such. It is for that reason that I granted the application on 11th June, 2020.

 **S. M. RUMANYIKA**
JUDGE
14/06/2020

The reasons delivered under my hand and seal of the court in chambers this 25/6/2020 in absence of the parties with notice.



S. M. RUMANYIKA

JUDGE

25/06/2020