

H/c DSM

IN THE HIGH COURT OF TANZANIA AT ARUSHA
CRIMINAL APPEAL NO. 28 OF 2002.

(District Court Arusha at Arusha in Criminal
Case No. 220/2000).

SHILA SINDANO MSENGLI..... APPELLANT
VERSUS

THE REPUBLIC RESPONDENT.

R. SHEIKH, J.

J U D G E M E N T:

In this appeal the appellant was represented by Mr. Mwaluko Learned Advocate and Mr. Materu, learned State Attorney appeared for the Republic, respondent.

The appellant is appealing against the decision of the District Court of Arusha in Criminal Case no. 220 of 2000, in which case the appellant was charged with the offence of Forcible detainee c/s 86 of the Penal Code, Cap. 16. It was alleged that on 13/3/2000 the appellant, at plot no. 12 Themu Industrial Area within the Municipality, District and Arusha Region without colour of right did hold the possession of the said plot in a manner likely to cause a breach of the peace. After a full trial the appellant was convicted of the offence as charged. Being aggrieved the appellant filed an appeal against both the conviction and the sentence. On 15/7/2003 when the appeal was called for hearing both learned counsels opted to argue the appeal by written submissions and a consent order was accordingly granted. On 17/9/2003, extension of time to file the written submissions was sought and accordingly granted and the appeal was fixed for mention today i.e 29/10/2003. As of todate the appellant's written submissions have not been filed and neither the appellant nor his advocate deigned to appear in court.

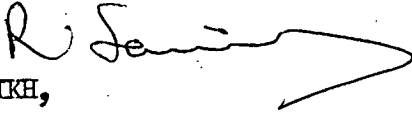
Mr. Materu, Learned State Attorney sought to have the appeal dismissed for want of prosecution the appellant having defaulted in filing the written submissions supporting the appeal, despite the extension of time granted to him

He further submitted that the appeal itself is misconceived and has no merit, and that the proceedings of the lower court contain sufficient evidence to establish the case for the offence with which the accused was charged.

Upon hearing the learned state Attorney and upon careful perusal and consideration of the proceedings of the trial court, I find that there is no doubt that the Land in question belongs to Zapata spares and services Ltd and the appellant has no lawful right for entering into or remaining in the aforesaid plot no.12 Block B Them Industrial Area, Arusha. The evidence tendered in court proves this fact beyond all reasonable doubt and the Judgement and conviction cannot be faulted.

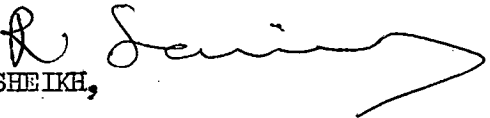
Accordingly I find that the appeal has no merit and it is hereby dismissed.

It is so ordered.


R. SHEIKH,

JUDGE.

Delivered at Arusha this 29th day of October, 2003 in chambers in the presence of Mr. Materu State Attorney for the Respondent and in the absence of the appellant.


R. SHEIKH,

JUDGE.

29/10/2003.

RS/em.