IN THE HIGH COURT OF TANZANIA
(LAND DIVISION)
AT DAR ES SALAAM
MISC .LAND APPEAL NO. 5 OF 2007

HAMIS
SALUMU.....APPEALLANT
VERSUS
HUSSEIN
OMARY.....RESPONDENT

RESPONDENT 'S WRITTEN SUBMISSION IN REPLY

May it please your Lordship,

This is the Respondent's response to the Appellant's written submission in support of the appeal lodged in this Court on the 21st day of August, 2008.

My Lord
We respond to the grounds raised by the appellant grounds number 1 and ground number 2 in sequence, starting with ground number 1. The appellant in his appeal states that the chairperson of the District land and Housing tribunal erred in law in deciding that there is no trespass.

My Lord
The respondent states that the learned chairperson was right in deciding that there was no trespass by the Respondents in fact the appellant is the one who trespassed the respondent's piece of land which is evidence by ward tribunal who visited the *locus in quo* and found the appellant exceeded by one foot to the respondent's piece of land deliberately.

My Lord
The second ground of the appellant's submission on appeal states that the chairperson erred in law and fact by rejecting the appellant's witness.

My Lord
The respondent states that, the appellant was the one who was bound to call the witness but failed to do so, the appellate tribunal was not bound to call witness at that stage as there were no new evidence which could be taken at that stage.

My Lord
The appellant statement that the decision of the chairperson to reject witness was contrary to the principle of Natural justice is a misconception in law as he was given that chance but failed to do, so he can not at this juncture claim he was not given a chance.

My Lord
The appeal lodged by the appellant has no merits on the arguments made herein above, we pray to the honourable court to uphold the decision made by the chairperson of the District Land and Housing tribunal for Temeke, by dismissing the appeal with costs.

We beg to submit my Lord.

Dated at Dar es salaam this .....day of .....,2008

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COUNSEL FOR THE RESPONDENT

Presented for filling this .....day of.....,2008

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_____
REGISTRY OFFICER

COPY TO BE SERVED UPON:
HAMIS SALUM
DAR ES SALAAM.

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