

## **Geita Gold Mining Limited vs Majaliwa Paul Maziku Land Case No. 5122 of 2026 [2026] TZHC 4557 (7 August 2026).**

**Key Note: There is no original jurisdiction of the High Court over mining disputes between a mineral rights holder and a third-party surface rights holder until the Mining Commission has first inquired into and decided the matter:**

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### **1.0: Brief Background of the matter**

The Plaintiff, Geita Gold Mining Limited, instituted Land Case No. 5122 of 2026 in the High Court of Tanzania (Geita Sub-Registry) against the Defendant, Majaliwa Paul Maziku. The Plaintiff sought declaratory and injunctive reliefs, special damages of TZS 400,000,000.00, general damages, interest and costs arising from the Defendant's alleged illegal trespass into the Plaintiff's Special Mining Licence Area No. 45/99. The Plaintiff contended that the Defendant had erected buildings and permanent structures within the licensed coordinates, thereby obstructing expansion of its mining operations and development of its Tailings Storage Facility (TSF).

The Defendant denied trespass, asserted lawful beneficial ownership of the suit premises, and raised a preliminary objection that the suit was incompetent and that the High Court lacked jurisdiction. The objection was premised on the ground that the dispute arose from an area covered by a Special Mining Licence issued under section 52 of the Mining Act, [Cap. 123 R.E. 2023] and that the Plaintiff had failed to exhaust the statutory remedies provided under the Mining Act and the Mining Dispute Resolution Rules, G.N. No. 323 of 2021 before approaching the High Court.

### **1.1. Arguments of the Defendant's Counsel**

Counsel for the Defendant argued that the power to inquire into and decide disputes between persons engaged in prospecting or mining operations among themselves, or between such persons and third parties other than the Government not so engaged, is exclusively vested in the Executive Secretary / Mining Commission under rule 3(1) of the Mining Dispute Resolution Rules and section 150(1) of the Mining Act. Since the Defendant was not engaged in mining operations, he fell within the category of a "third party."

Counsel argued that the central dispute, as pleaded in the plaint, concerned construction of permanent structures that obstructed the Plaintiff's mining exploration and TSF operations. The suit was therefore premature; the Plaintiff was required first to exhaust the remedies under section 150(1)(a), (b) and (c) of the Mining Act. Under section 152, the High Court only has appellate jurisdiction over decisions of the Commission.

### **1.2. The Court's Position**

The Court (P. R. Kahyoza, J.) held that jurisdiction is determined by examining the plaint and the applicable law. Although the Plaintiff framed the claim as trespass, a close reading of the plaint revealed a collision between the Plaintiff's mining rights and the Defendant's surface rights. The obstruction of expansion of mining operations and the TSF fell squarely within section 150(1)(b) of the Mining Act (claims concerning construction of structures such as dams or reservoirs for mining purposes).

The Defendant, though not engaged in mining, was a "third party" holding surface rights—the meaning ascribed to that term both in *Geita Gold Mining Limited vs John Leo James; Geita Gold Mining vs Khalid Juma Msafiri* and in comparative mining jurisprudence (*Vedanta Resources PLC v Lungowe* [2019] UKSC 20).

Section 150 of the Mining Act therefore vested exclusive original jurisdiction in the Mining Commission. Section 152 confers only appellate jurisdiction on the High Court. Where a statute creates a specialised forum, parties cannot bypass it at will. The suit was consequently incompetent for want of jurisdiction and was struck out with costs. The Defendant's counter-claim, arising from the same parties and subject matter, suffered the same fate and was also struck out with costs.

## **2.0: Principles established**

The judgment establishes the following key legal principles:

- (a) Disputes between a holder of mineral rights and a third-party surface-rights holder concerning boundaries of a mineral right, construction of mining-related structures (including tailings facilities), or related interference fall within the exclusive original jurisdiction of the Mining Commission under section 150(1) of the Mining Act, 2023.
- (b) The High Court has no original jurisdiction over such disputes; its role is limited to appellate review under section 152 after the Commission has rendered a decision.
- (c) A "third party" for purposes of section 150 includes non-miners (community members, farmers or local property owners) whose surface rights conflict with mineral rights.
- (d) Where a statute establishes a specialised dispute-resolution forum, courts will decline jurisdiction unless the aggrieved party demonstrates that no appropriate remedy is available in that forum.

## **3.0. Conclusion and our observation**

The decision reinforces the primacy of the specialised dispute-resolution machinery created by the Mining Act. Mineral-rights holders cannot characterise surface-interference claims as ordinary trespass actions in order to access the High Court at first

instance. Parties must first present such disputes to the Mining Commission; only thereafter may an aggrieved party invoke the High Court's appellate jurisdiction. The ruling is consistent with recent Geita Sub-Registry decisions and with the settled principle that specialised statutory fora cannot be bypassed.

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