

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(DAR ES SALAAM SUB REGISTRY)**

AT DAR ES SALAAM

CIVIL CASE NO. 10 OF 2023

BETWEEN

UNIVERSAL G & G CO LTD PLAINTIFF

VERSUS

IMR METALLURGICAL RESOURCES AG.....1ST DEFENDANT

JITEGEMEE HOLDING LIMITEDINTERESTED PARTY

IN THE COUNTER CLAIM

IMR METALLURGICAL RESOURCES AG DEFENDANT

VERSUS

UNIVERSAL G & G CO LTD PLAINTIFF

Date of Last order: 03/05/2024

Date of Judgement: 03/05/2024

CONSENT JUDGEMENT

MAGOIGA, J.

The plaintiff, **UNIVERSAL G & G CO LTD** by way of plaint instituted the instant suit against the above-named defendant praying for judgement and decree in the following orders, namely: -

- a) Declaration that the defendant has breached the confidentiality agreement executed on 09th October, 2022 between the plaintiff, defendant and Mr. Sanjay Shah;

- b) Payment of special damages in the sum of USD950,000 (United State Dollars Nine Hundred and Fifty Thousand Only) being the profit which would have been paid to the plaintiff for sale of 55,000 (+-10PTC) metric tons of Tanzania steam coal in bulk;
- c) General damages in the sum of USD.200,000.00 (United State Dollars Two Hundred Thousand Only) or part thereof as it may be assessed by the court in its absolute discretion;
- d) Interest on the specific damages at the rate of 12% per annum from the date the cause of action arose and from the date of judgement;
- e) Interest on the decretal sum from the date of judgement to the date of full payment;
- f) Costs; and
- g) Any other reliefs the court may deem appropriate to grant.

When this case was called on for hearing on 3rd this day of May, 2024, Mr. Levis Lyimo, learned advocate holding brief for Mr. Deogratius John Lyimo Kiritta for the Plaintiff, Messrs. Daniel Welwel and Jacob Kaisi, learned advocates for the defendants and Mr. Alvin Fidelis, learned advocate for the interested party informed the court that parties have



managed to settle the matter and deed of settlement has already been filed in court since 18th April 2024.

The learned counsel for parties' thus, prayed that the Deed of Settlement be recorded as decree of the court in terms agreed therein.

Having gone through the deed of settlement filed in this court by the parties and indeed filed under order XXIII Rule 3 of the Civil Procedure Code [Cap 33 R.E. 2019] and the said Rule 3 provides that: -

"Where it is proved to the satisfaction of the court that the suit has been adjusted wholly or in part by any lawful agreement or compromise, or where the defendant satisfies the plaintiff in respect of the whole or any part of the subject matter of the suit, the court shall order such agreement, compromise or satisfaction to be recorded and shall pass decree in accordance therewith so far it relates to the suit."

This provision was defined by Mulla, the Code of Civil Procedure Act of 1908 (14th edition) on page 1828, who stated that: -

"The rule gives a mandate to the court to record a lawful or compromise and pass a decree in terms of such



compromise or adjacent. Such consent decree is not appealable when the agreement relates to whole suit. The court on being invited by the parties record the agreement and pass a decree in accordance with the agreement and the suits ends there."

This position was acknowledged by the Court of Appeal in the case of **Motor Vessel Sepideh and Another v. Yusuph Mohamed Yusuph and two others, Civil Application No. 237 of 2013 (unreported)** the Court of Appeal observed that

" Where there is lawful agreement or compromise, the court is bound to record a settlement once it is arrived at by the parties."

I have examined the deed of settlement which seeks to settle the whole suit once and for all and I am satisfied as to its lawfulness and effect of settling the whole suit once and for all. In the view of the above the same is hereby registered and it shall form part and parcel of this consent decision of the court as well as its decree.



The present suit, therefore, is marked settled at the instance of the parties' terms and conditions set out in their Deed of Settlement executed and filed in this court on 18th April, 2024.

It is so ordered.

Dated at Dar es Salaam this 3rd day of May, 2024.



A handwritten signature in blue ink, appearing to read "S.M. Magoiga", is written over a horizontal line.

S.M. MAGOIGA

JUDGE

03/05/2024.