

IN THE COURT OF APPEAL OF TANZANIA

AT DAR ES SALAAM

CORAM: MAKAME, J.A.

CIVIL APPLICATION NO. 43 OF 1996

In the Matter of an Intended Appeal

BETWEEN

NATIONAL BANK OF COMMERCE APPLICANT

AND

SADRUDIN MEGHJI RESPONDENT

(Application for Revision of the High
~~Court~~ Decision from the Judgement of
the High Court of Tanzania at
Dar es Salaam, Kyando, J. dated the
6th day of February, 1996)

in

Civil Case No. 224 of 1994

Between

SADRUDIN MEGHJI PLAINTIFF

And

NATIONAL BANK OF COMMERCE DEFENDANT

R U L I N G

MAKAME, J. A.

The applicant, the National Bank of Commerce, here represented by Mr. Maira, learned advocate, was ordered by the High Court (Kyando, J.) to pay a sum of money to the present respondent, SADRUDIN MEGHJI, in this application advocated for by Mr. D. Kesaria, learned counsel. The applicant is now asking for a Stay of Execution pending the hearing of his application for Revision.

Argument was spent by both counsel as to whether or not the High Court judgement was by consent and whether the present state of the law allows Revision in the particular circumstances of the case.

I propose to be very brief. The issues submitted on by learned advocates would, in my view, best be considered during the proposed hearing of the application for Revision. For the time being, taking into consideration, among other things, the fact that Mr. Kesaria's contention is not controverted that the applicant had gone as far as committing itself in writing that it was processing the payment of the decretal amount, which must have made the respondent rest assured that all was well, it is only fair that, now that the applicant is taking back its word, if Stay of Execution is ordered the decretal amount should be deposited in Court to await the sorting out of the issues raised.

I order that the execution of the judgement be stayed but on condition that the full decretal amount is paid into court by Tuesday, 16th April, 1997.

I make no order as to costs.

Dated at Dar es Salaam this 27th day of March, 1997.

L. M. MAKAME
JUSTICE OF APPEAL

I certify that this is a true copy of the original.


(M. S. SHANGALI)
DEPUTY REGISTRAR