

IN THE HIGH COURT OF TANZANIA

AT MBEYA

CIVIL CASE NO. 5 OF 2001

1. FLORA KILASI)PLAINTIFFS
2. SIKITU KILASI)

VERSUS

1. SAFEGUARD (T) LTD)
2. BUSINESS PRINTERS LTD)DEFENDANT
3. FREDRICK SIWALE)
)

R U L I N G

This is an application for review filed by the decree holder's advocate Mr. Mushokorwa. The applicant sought the following reliefs:-

- (a) The court order dated 27/3/2003 to be reviewed by awarding costs of execution.
(b) Costs of this application be provided for.

The application was heard exparte after the respondents had defaulted to enter appearances. It was submitted by Mr. Mushokorwa advocate in support of her application that they prayed for costs of that will arise her to execution process. The District Registrar allowed the prayers in the chamber summons and failed to grant the costs of execution. The costs of execution was prayed for. He submitted that since the respondent defaulted to honour the decree in view of S.30 of CPC costs followed the events. He contended that costs were denied by the District Registrar without assigning reasons. He referred me to the case NJOLO FURNITURE V TANESCO (1995) T.L.R. 205.

I had an opportunity to go through the above judgement which held inter-alia that "costs follow the event; where the court directs that any costs shall not follow the event the court shall state its reason in writing". I am in total harmony that costs have to follow the event. My doubts in this case at hand is whether there was a need of such an application. The answer to the above issue is in negative. The decree holder need not file an application to pray for costs of execution. Execution costs are costs, fees charges and allowances incurred or to be incurred plus commission payable to the excuting officer. The above named costs are payable under Rs. 12 and 13 or G.N. 315/97

The above stated costs of execution are payable after the executing officer has filed his bill of costs with the executing court and the same having been determined. These costs are innavoidably paid from judgement's attached and sold property.

Thus a decree holder need not pray for executing costs as they are inevitable and an unavoidable costs or say necessary costs. So there was no need of applying for costs of executing or including the estimated costs of executing in the application. Hence the failure to mention costs of execution in the order sought to be reviewed is not an error to be reviewed. It is ordered that execution costs are pertinent costs and they are determined after the executing officer and the decree holder have filed their bill of costs incurred during the execution and the same taxed. So the application is dismissed and no order as to costs as the same proceeded exparte.

It is so ordered.



J. KAHYOZA
DISTRICT REGISTRAR
6/8/2003

Court: Ruling delivered in the absence of the parties. The applicant's advocate duly informed but committed with the on going High Court Criminal Session at Mbeya. C.C. Mrs. Mwakajanga present.

J. KAHYOZA
DISTRICT REGISTRAR
6/8/2003