

**IN THE HIGH COURT OF TANZANIA
(LAND DIVISION)
AT DAR ES SALAAM**

LAND CASE NO.138 OF 2008

PETROMARK AFRICA LTD PLAINTIFF

VERSUS

TANZANIA PORTS AUTHORITY DEFENDANT

R U L I N G

Longway, J.

This ruling is on a point of objection that the court lacks jurisdiction to try the suit by reason of the pecuniary value involved being Tshs.15,383,520 as per paragraph 4 and 5 of the plaint. Counsel for the defence Mr. Msuya submitted that by virtue of the provisions of Section 37 (b) of Act 2/2002, the value of the suit is better filed in a lower forum as per section 13 of the Civil Procedure Act R.E. 2002.

On the second prayer regarding fuel to be released, it was submitted that the value of the same has not been stated or given, contrary to Order VII Rule 1(f) of the Civil Procedure Act Re 2002 and as held in Civil Appeal No.84/2002 Tanzania China Friendship Co. Ltd vs. Our Lady of Usambara Sisters.

Mr. Komeye counsel for the plaintiff countered objection submitting that though not stated, the value involved is more than 50mi/=.

Counsel contends the plaintiff has incurred some 40m/= investment to develop premises and facilitate fuel storage. That plus value of arrears, the court would be vested with jurisdiction. Learned counsel contends the dispute is on unlawful termination. He urged the objection be dismissed with costs.

In Rejoinder, Mr. Msuya charged that the plaintiff's mentioned valued have not been pleaded as required by the provisions of Order VII of the Civil Procedure Act RE 2002. It was pointed out that no reply to Written Statement of defence was filed and no comment on the effect of the authority. It was conceded the suit can be filed in Dar es Salaam at the District Tribunal. The objection was reiterated.

Having gone through the pleadings and the warring arguments by learned counsels as well as cited authority at page 10 onwards and apply it to the present matter, I am moved to hold the considered view that applying the provisions of section 37(1) of the Act No.2 of 2002 and Order VII (1)(f) of Civil Procedure Act Cap 33 RE 2002, that indeed the objection does hold water. The only value specified in the pleadings is far less the value which would enable this court to entertain this suit. Accordingly, the court has no jurisdiction to try the matter filed and indeed, only the District Tribunal would have jurisdiction. In the premises the objection of lack of jurisdiction is up held with costs.

The suit is therefore dismissed.



M.H.C.S. Longway
M.H.C.S. Longway

JUDGE

29/07/08

Delivered in presence of plaintiff's person this 31st day of July, 2008.

M.H.C.S. Longway

JUDGE

Later: Mr. Mwakajanga appears and read the ruling to.

M.H.C.S. Longway

JUDGE

31/07/08