

**IN THE HIGH COURT OF TANZANIA**

**AT DAR ES SALAAM**

**CIVIL REVISION NO. 24 OF 2008**

**MAINES KIPUTA .....APPELLANT**

**VERSUS**

**ADSON IPUTA & 8 OTHERS .....RESPONDENT**

**R U L I N G**

**MWARIJA, J.**

The applicant in this Civil Revision has applied for two orders; firstly is an interlocutory order restraining the Registrar of Titles from effecting transfer of property on Plot No. 504 Block BB with title No. 24895 within Morogoro township which is in the name of Maines Richard Mwakilima to the 10<sup>th</sup> respondent, Ernest Theobald Mallya pending the determination of the revision. The second order prayed for is for joining the buyer in the application for revision.

The application was brought under certificate of urgency. According to the submission and the affidavit sworn by the

learned counsel for the applicant, Mr. Kannonyele, the urgency as regards the first prayer is based on the fact that the Registrar of Titles has given a thirty days' notice to transfer the title over the property to the disputed buyer, the 10<sup>th</sup> respondent. The notice is with effect from 12/11/2009 and is about to expire. The learned Counsel submitted that if the transfer is effected, the applicant, a very oldman, will suffer an irreparable loss as he will be evicted from the premises. He will also be caused to suffer hardships in recovering the property if he finally becomes successful in the revision.

Although the application was made exparte, considering O.XXXVii r.4 of the Civil Procedure Code Cap. 33 R.E. 2002 (CPC), I ordered that the respondents be served. As submitted by the learned counsel, however, they could not be found. Given the period of time within which the transfer is to be effect however, I find that it would be in the interest of justice to temporality restrain the transfer. This is because the applicant stands to suffer if the property is transferred while the respondents, particularly the 10<sup>th</sup> respondent, the buyer,

will not suffer any irreparable loss. For those reasons, under S.68 (e) of the CPC the Registrar of Titles<sup>is</sup> hereby temporarily restrained from transferring title in respect of Plot No. 504 Block "BB" within Morogoro township pending hearing and determination of the revision. As to the second prayer, I find that it should await hearing of the revision. The learned Counsel should therefore wish to amend the chamber summons accordingly so that the respondents can be served and the application proceed for hearing interparties.

  
A. G. MWARIJA

**JUDGE**

**10/12/09**