

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**  
**[IN THE DISTRICT REGISTRY]**  
**AT ARUSHA**

**MISC- CIVIL APPLICATION NO. 77 OF 217**

*(Originating from Bill of Costs No. 8 of 215, Bill of Costs No. 76 of 2015,  
Taxation Cause No. 18 of 2015, Execution No. 76/2015)*

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|---|---------------------------------|
| <b>1. MR. TERUTILIANO ELIFAS KAAYA.....</b> | <b>1<sup>st</sup> APPLICANT</b> |
| <b>2. MR. NDELILIO OBILIO MBISE.....</b>    | <b>2<sup>ND</sup> APPLICANT</b> |
| <b>3. MR. MALAKI ELIFASI KAAYA.....</b>     | <b>3<sup>RD</sup> APPLICANT</b> |
| <b>4. MR. DANIEL ELIFASI KAAYA.....</b>     | <b>4<sup>TH</sup> APPLICANT</b> |
| <b>5. MS. HELENA KUNDA KAAYA.....</b>       | <b>5<sup>TH</sup> APPLICANT</b> |
| <b>6. MR. GILIAD SOLOMON KAAYA.....</b>     | <b>6<sup>TH</sup> APPLICANT</b> |

**VERSUS**

**MR. PAULO SAMWEL SHANGO.....DEFENDANT**

**RULING**

*Date of last order: 26/03/2018*

*Date of Ruling: 09/08/2018*

**BEFORE: S.C. MOSHI, J**

The applicants filed a Chamber summons under Order XXI Rule 10 (2) (i) (iii) of the Civil Procedure Code Cap 33. R.E 2002. The Applicants are seeking for the following orders.

1. That the respondent above named i.e MR. PAUL SAMWEL SHANGO be arrested and detained in prison until that time when he will have paid in full the principal sum and interest there to awarded to the applicants in the High Court of Tanzania in the District Registry of Arusha Bill of costs No 8 of 2015. Bill of costs No 76 of 2015 and taxation cause No 18 of 2015 amounting to Tanzanian Shillings Fifteen Millions, five hundred forty six thousand and one hundred and sixty ( 15, 546,160/=)

clear that the Respondent is frustrating the process. They do pray that Judgment Debtor be arrested and be detained in prison until the time when he pays the money.

He further told this court that, they will be paying for his up keeping in the prison. It is a principle of law in this country that once the Judgment Debtor is aware that he has to pay a decretal amount, if he fails to do so, within one year, it's taken that he has failed to pay that money; he referred this court to the case of **Musa Shaiby Msangi Vs Sumry High Class Ltd & Another** [2016]. Tanganyika Law Society Law Report page, 430-439; at page 43. He said, These Bill of Costs were passed in 2016. It's more than three years. Hence he has failed to pay the decreed money. He did also pray to be paid costs of this application.

I have considered the submissions that was made by the applicant. It is evident that the respondent who is Judgment Debtor in Execution No. 76 of 2015 has failed to pay the Principal Sum. The efforts to obtain the sum through Court Brokers have also failed. It is obvious that the respondent deliberately refuses to pay the ordered sum.

I therefore, basing on the aforesaid grant the Application.

I order that the respondent be arrested and be detained as a Civil Prisoner until the time when he will have paid in full the principal sum.

It is so ordered.

  
**S.C. MOSHI**  
**JUDGE**  
**17/08/2018**

