

**IN THE HIGH COURT OF TANZANIA**

**(DAR DISTRICT REGISTRY)**

**AT DAR ES SALAAM**

**LAND CASE NO. 29 OF 2015**

**RAMADHANI SAID MUSSA MUKUTIKA .....1<sup>ST</sup> PLAINTIFF**

**KASSIMU SAID MUSSA MAKUTIKA .....2<sup>ND</sup> PLAINTIFF**

**VERSUS**

**ADMINISTRATOR GENERAL OF TANZANIA ..... 1<sup>ST</sup> DEFENDANT**

**ABDALLAH NAHADI ..... 2<sup>ND</sup> DEFENDANT**

*15/11/2017 & 16/2/2018*

**RULING**

**I.P.KITUSI,J.**

At the instructions of the court the parties to this case were required to address it on whether this is a Land Case or a Probate Cause. This was in addition to a point that had earlier been raised by the counsel for Abdallah Nahdi the second defendant to the effect that the suit is hopelessly time barred.

The plaintiffs Ramadhani Said Mussa Makutika and Kassim Said Mussa Makutika respectively the first and second plaintiffs are suing the Administrator General of Tanzania, the first defendant and the second defendant already described above. The basis of the suit is an alleged right by the plaintiffs

over a landed property belonging to one Said Ramadhani Mussa Makutika who is said to have died in November 1978, close to forty years ago. Given this rather long lapse of time it is not at all surprising that Mr. Kerario, learned counsel for the second defendant raised the issues of time limit.

However in order to determine the question of limitation one has to be certain that the case falls under a certain category. Reading the plaint which is titled Land case No. 29 of 2015, and the contents thereof alleging inheritance right it occurred to me that the parties should address both. On 15th November 2017 I ordered that they present written submissions.

No written submissions have been filed by either.

The law is clear that submissions filed out of time are not allowed[See **NIC Bank Tanzania Limited Vs Patrick Edwad Moshi and Janeth Patrick Mosha.**

Misc. commercial Application No. 327 of 2015( unreported).

If submissions filed out of time are not allowed, it is worse if no submissions are filed. It is as good as if the case has not been prosecuted. As the court had directed the parties to address the property of this case in court, whether it is a land

or Probate case, and as that has not been prosecuted, I find the case to be improperly before this court. Consequently I strike it out with costs.



16/2/2018

Coram: Hon. Massam DR.

For the Plaintiff 1<sup>st</sup> } Mr. Kipengele Advocate  
2<sup>nd</sup> }

For the Defendant 1<sup>st</sup> } Mr. Kerario Advocate H/b of Makoko Ad  
2<sup>nd</sup> } Mr. Kerario Advocate

Cc: Masasi.

Mr. Kipengele Advocate

The matter is coming or ruling, I am ready for it.

Order – Ruling delivered today on 16.2..2018, in the presence of Mr. Kipengele Advocate Advocate for applicant and Mr. Kerario Advocate for defendant.



**R.B. MASSAM**

**DR**

**16.2.2018.**