

**IN THE UNITED REPUBLIC OF TANZANIA**  
**THE HIGH COURT OF TANZANIA**  
**(DAR ES SALAAM DISTRICT REGISTRY)**  
**AT DAR ES SALAAM**

**CIVIL CASE NO. 198 OF 2016**

**AHAZI TERU MWAMGONGWA ----- PLAINTIFF**

*VERSUS*

**BEST SELL BUREAU DE CHANGE LIMITED ----- 1<sup>ST</sup> DEFENDANT**

**GEOFREY WILLIAM MRAMIA ----- 2<sup>ND</sup> DEFENDANT**

**SUMMARY JUDGMENT**

**MUTUNGI, J.**

On 21<sup>st</sup> October, 2016 the plaintiff herein filed a summary suit against the defendants jointly and severally claiming for immediate payment of US dollars 72,528.00 (US dollars Seventy-two thousand, five hundred and twenty-eight only) being the amount illegally and unlawfully obtained by the defendants. The defendants did under Order XXXV of the Civil Procedure Code apply for leave to defend by filing a chamber application christened No. 309/2017 but failed to prosecute the same. In accordance to order XXXV Rule 2, the application was consequently dismissed for want of

prosecution. As a result, the court has had to entertain the plaintiff's suit. Mr. Castor Rwekiza is representing the plaintiff herein. It is alleged in the plaint that the plaintiff did at different dates (1<sup>st</sup> December, 2-14, 2<sup>nd</sup> December, 2014 and 5<sup>th</sup> December, 2014) advance to the defendants a sum of Tshs. 133,000,000/= equal to US dollars 77,778.00 for business facilitation purposes as per the vouchers annexed as AMT – 1.

Further, on 29<sup>th</sup> January, 2015 the plaintiff and defendants entered into an agreement that the second defendant should acknowledge receipt of Tshs. 124,002,500 from the plaintiff after the defendants had paid 8,977,500 and the outstanding balance now being US dollars 72,528.00 or Tshs. 124,022,500/=. The second defendant promised to pay the same within three months from 30<sup>th</sup> April, 2015 and the same reduced in writing. A business card of the second defendant was left behind (both annexed as MT – 2).

The transaction was such that, the defendant had received the said amount for the purposes of effecting exchange at the agreed exchange rate and the second defendant, the

Director and majority share (s) holder was to submit the money in US dollars to the plaintiff.

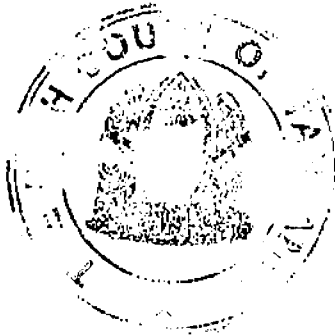
In paragraph eight of the plaint, the plaintiff alleges that the defendants did not adhere to their commitments as per the agreement instead they orally promised to pay the same at a further time without mentioning the exact date and time within which to do so.

As a result, as per paragraph 9, on 20<sup>th</sup> April, 2015 they had to enter again into an agreement in which the defendants committed themselves to a payment schedule as follows; US dollars 14,859.000 payable by 30<sup>th</sup> April, 2015 US dollars 56,678.00 by 30<sup>th</sup> June, 2015 (annexture AMT – 3) of which they once again did not honour.

In fulfilling, the above the plaintiff had to cancel a business trip to China as a result, his business totally collapsed. In support thereof, a business licence and Tax Payer Identification Number were annexed as AMT – 4. The plaintiff has had to suffer intolerable loss, inconveniences, untold hardships, loss of business as the money was for the business. His entire family had suffered mental anguish and psychological problems.

In line, with what is found in the plaint, the corresponding annexures and this being a summary suit the court proceeds to grant the plaintiff the following as envisaged under order XX rule 2 (2) (a);

- "(a) Immediate payment of US dollars 72,528 jointly by the defendants being the amount illegally and unlawfully obtained by them.*
- (b) Interest on the decretal amount at the court rate from the date of judgment to the date of payment of the amount in full.*
- (c) Costs of this suit".*

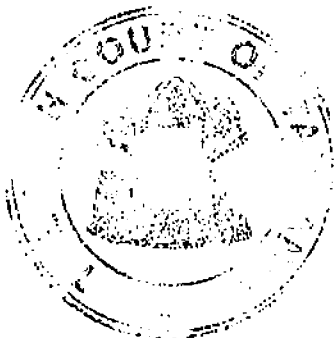


  
B. R. Mutungi

**JUDGE**

**29/10/2019**

Read this day of 29/10/2019 in presence of Grace Mataba,  
Advocate for the plaintiff.



  
B. R. Mutungi

**JUDGE**

**29/10/2019**