

**IN THE HIGH COURT OF TANZANIA
DAR ES SALAAM DISTRICT REGISTRY
AT DAR ES SALAAM
MISC. CIVIL APPLICATION NO. 482 OF 2019**

**KAPOLO AGRICULTURAL MARKETING PRIMARY
COOPERATIVE SOCIETY LIMITED (ELISHA
AZGADI MABOLA AND 89 OTHERS).....APPLICANTS**

VERSUS

**TANZANIA AGRICULTURAL
DEVELOPMENT BANK.....RESPONDENT**

RULING

Date of Last Order: 1/10/2019

Date of Ruling: 10/10/2019

S.M. Kulita, J.

The applicants KAPOLO AGRICULTURAL MARKETING PRIMARY COOPERATIVE SOCIETY LIMITED (on behalf of ELISHA AZGADI MABOLA and 89 Others) through their Advocate January Raphael Kambamwene filed this application praying for this court to grant leave for them to file and prosecute a civil suit against the Respondent namely Tanzania Agricultural Development Bank.

The said intended suit is about objecting the threatened sale of various properties belonging to the applicants on the allegations that the applicants had breached the terms of loan agreement

with the respondent.

The application has been made under O.1, R.8 of the Civil Procedure Code [Cap. 33 R.E 2002]. It is supported by an affidavit sworn by one ELISHA AZGADI MAGOLA who is one of the Applicants and represents them in this application.

In spite of being served on the 24/9/2019 the Respondent never turned up to court, hence this matter which was under a certificate of urgency proceeded with hearing in the absence of the Respondent.

In his submissions Mr. Kambamwene prayed for the affidavit sworn by the deponent Elisha Azgadi Mabola to be adopted as a part of the applicants' submissions. He said that all applicants have a common interest on the matter in question. They all signed on a paper sheet with the heading WANACHAMA KAMCOS 27/08/2019 of which the Advocate tendered to court and filed.

Mr. Kambamwene submitted that the essence of the application is to seek leave to file a representative suit instead of each member out of those 90 to sue in person. He concluded by praying for the application to be granted.

As the matter has been heard ex-parte it means the application is not contested. As the reasons advanced Mr. Kambamwene, Counsel for the applicants are genuine in the sense that the Applicants are great in number but they all have common interest, it is proper for the to file a representative suit. One Elisha Azgadi Mabola who has been appointed by the said 90

persons is allowed to represent others.

In upshort the application to file a representative suit as per O.1, r.8 of the Civil Procedure Code [Cap.33 R.E 2002] is hereby granted. No order as to costs.



S.M. Kulita

JUDGE

10/10/2019