

**IN THE HIGH COURT OF TANZANIA
DAR ES SALAAM DISTRICT REGISTRY
AT DAR ES SALAAM
MISC. CIVIL APPLICATION NO. 128 OF 2019**

FR. JAMES MWEYUNGE.....APPLICANT

VERSUS

CHARLES MOKIWA.....RESPONDENT

RULING

24/10 & 24/10/2019

S.M. Kulita, J.

The applicant FR. JAMES MWEYUNGE who is a Decree Holder in this matter filed this application for execution of decree against the Respondent one CHARLES MOKIWA who is the Judgment Debtor. The application arises from the Civil Case No. 154 of 2014 in which through a consent judgment/decreed dated 26th September, 2016 the Respondent was ordered to settle a total sum of Tshs. 60,000,000/= by paying the applicant within a period of 6 (six) months from the date of decree/judgment. The said period lapsed without the matter being settled. That led the Applicant to file this application for execution of decree and the means that he has adopted is the arrest and detention of the Respondent as a Civil Prisoner.

The Respondent was summoned to appear before this court to show cause why the decree should not be executed in a means

that has been prayed for. However he was not physically found. The Applicant notified the court that he is in United Kingdom (UK) and he resides there. As the applicant knows the address that the Respondent uses thereat he prayed for the service of summons be made through that postal address (DHL) which is accessible to him. That said prayer was granted whereby the summons was issued to the Respondent for him to appear before this court on 22/10/2019 to show cause why the execution (detention as a civil Prisoner) should not be granted.

Inspite of the said means of service being adopted for the Respondent (Judgment Debtor) to appear on the 22/10/2019 still he never turned up to court to show cause. That led the applicant's Learned Counsel, Martine Rwehumbiza to pray for the court to order the execution of decree through that mode.

As the Respondent has been served with the summons through the Postal service under O.XX1, r.9 of the Civil Procedure Code [Cap. 33 R.E 2002] but he never turned up, it means he has neglected his chance to show cause why the execution should not take place as prayed. Consequently, it is hereby ordered that the application for execution of decree is granted. The Respondent should be arrested and detained as a Civil Prisoner.



S.M. Kulita

JUDGE

24/10/2019