

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
IN THE DISTRICT REGISTRY OF SHINYANGA**

**AT SHINYANGA**

**CIVIL CASE NO. 05 OF 2019**

**KELLO RASHID KARADENGA.....APPLICANT**

**VERSUS**

**THE ASSOCIATION OF TANZANIA TOBACCO TRADERS LTD...1<sup>ST</sup> RESPONDENT**

**THE TANZANIA LEAF TOBACCO COMPANY LIMITED.....2<sup>ND</sup> RESPONDENT**

**THE TANZANIA TOBACCO PROCESSORS LIMITED.....3<sup>RD</sup> RESPONDENT**

**THE OFFICER COMMANDING DISTRICT (OCD)-KAHAMA.....4<sup>TH</sup> RESPONDENT**

**THE ATTORNEY GENERAL (AG).....5<sup>TH</sup> REPENDENT**

*Date of Last Order: 02/06/2020*

*Date of Ruling: 30/07/2020*

**RULING**

**C. P. MKEHA, J**

On 29/07/2019 the plaintiff presented a plaint before the court claiming as against the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> defendants general damages to the tune of TZS. 500,000,000/= resulting from ribel and false imprisonment. The plaintiff also claims TZS. 100,000,000/= from the 4<sup>th</sup> and 5<sup>th</sup> defendants being compensatory damages as per his own pleadings, resulting from imprisonment. The plaintiff is being represented by Mr. Ndayanse learned advocate. Mr. Kyariga learned advocate represents the 1<sup>st</sup> to 3<sup>rd</sup> defendants. Mr. Lwenge learned Senior State Attorney represents the 4<sup>th</sup> and 5<sup>th</sup> defendants.

After completion of pleadings, the defendants raised a preliminary point of objection to the effect that, the suit is hopelessly time barred. In their written submissions, through their advocates, the defendants submitted that since the plaintiff's claims are tortious in nature, the same ought to have been instituted in court within three years from when the events complained of happened. Item 6 of Part I to the Schedule of the Law of Limitation Act was cited. The plaintiff's reply was that the cause of action arose on 15/11/2017. As such, when the suit was filed in court, it was still within time.

There is no denial that the defamation (ribel) complained of is contained in a letter dated 01/10/2010 which named the plaintiff as a thief. **See:** paragraph 8 of the plaint. The plaintiff alleges in paragraph 9 of the plaint that on 10/11/2010 he was arrested and remanded for six days before being taken to court on 16/11/2010. Upon being taken to court, he was remanded for further 6 days until 22/11/2010 when he was released on bail. **See:** Paragraph 10 of the plaint. Again, on 10/05/2012, when the prosecution withdrawn charges against the plaintiff, the latter was re-arrested and taken to Kahama Central Police Station. As per the plaintiff's own plaint, those are particulars indicating when the events leading to the cause of action happened. That, it was between 01/10/2010 and 10/05/2012. Neither of the events complained of happened on 15/11/2017 as the plaintiff seem to suggest in his reply. **See:** Paragraph 15 of the Plaint.

Whereas the events leading to this case happened between 01/10/2010 and 10/05/2012, the present suit was instituted in court on 29/07/2019. Being tortious claims, the same ought to have filed in court within three years since when the cause of action arose. It was indeed out of time when the same was brought in court.

For the foregoing reasons, the defendants' objection is sustained. The suit stands dismissed with costs for being time barred.

Dated at **SHINYANGA** this **30<sup>th</sup>** day of July, 2020.

