

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

**MISCELLANEOUS CIVIL APPLICATION NO.40 OF 2020**  
*(Arising from Civil Case No. 7/2018)*

**SEIF ABDALLAH NGAKONDA----- APPLICANT**

*VERSUS*

**FELIX MATHIAS MATEMU----- RESPONDENT**

**RULING**

*Date of last Order: 26/02/2020*

*Date of Ruling: 26/02/2020*

**E. Kakolaki, J**

This is an application for an order of stay of execution in respect of the Decree of the District Court of Kigamboni at Kigamboni (Hon. Mchome SRM) in Civil Case No. 7/2018 dated 21/11/2019. [It has been brought under Order XXXIX Rule 5(1) and 5(4) of the Civil Procedure Code, Cap. 33 R.E 2002] supported by affidavit of the applicant one SEIF ABDALLAH NGAKONDA. The matter was scheduled for hearing on 26/02/2020.

When perusing the affidavit in support of the application and its annexures the court noted that the applicant was issued with the notice to show cause as to why the decree should not be executed which matter was scheduled to come for hearing before Kigamboni District Court on 3/3/2020. And that no any execution order of the decree has ever been issued by the court which could have moved the applicant to seek this court's intervention to have it stayed. The court thus called parties to address it on that point before proceeding with hearing of the application which seemed to be premature.

After such explanation from the court when the matter came for hearing before me on 26/02/2020, Mr. STEVEN MBUJE learned advocate for the applicant noted and conceded that the application was prematurely brought before this court as there was no execution order to be stayed. He therefore prayed to withdraw the application without orders as to costs, the prayer which was not objected by Mr. PRETUS KYARA learned advocate for the respondent.

There being no objection as to the prayer by the applicant to withdraw the application, this court has no reason to refuse it. The withdrawal prayer is therefore hereby

granted and the application marked as withdrawn. No orders as to costs.

It is so ordered.

**DATED at DAR ES SALAAM** this 26<sup>th</sup> day of February, 2020.

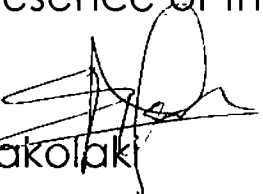


E. Kakolaki

**JUDGE**

**26/02/2020**

Ruling is delivered in the presence of Mr. STEVEN MBUJE advocate for the applicant, Mr. ARETAS KYARA advocate for the Respondent and in the presence of the Respondent.



E. Kakolaki

**JUDGE**

**26/02/2020**