

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
MOSHI DISTRICT REGISTRY  
AT MOSHI**

**MISC. REFERENCE NO. 01 OF 2020**

(C/F Taxation Course No. 166 of 2018, District Land and Housing Tribunal)

**THE REGISTERED TRUSTEES OF BARAZA**

**KUU LA WAISLAM TANZANIA (BAKWATA) ..... APPLICANT**

**VERSUS**

**RAMADHANI MSUYA.....1<sup>ST</sup> RESPONDENT**

**JUMAA A. MSUYA..... 2<sup>ND</sup> RESPONDENT**

**HAMIDU A. MFINANGA.....3<sup>RD</sup> RESPONDENT**

**AHMED S. MSUYA.....4<sup>TH</sup> RESPONDENT**

**ATWAH H. MFINANGA.....5<sup>TH</sup> RESPONDENT**

**JUMAA S. MSUYA .....6<sup>TH</sup> RESPONDENT**

*18<sup>TH</sup> AUGUST, 2020 & 9<sup>TH</sup> OCTOBER, 2020*

**RULING**

**MKAPA, J:**

The Applicant filed this Application seeking the Court to quash and set aside the decision of the taxing officer which was delivered on 28/04/2020 in **Application No. 44 of 2015 by Hon. P.J Makwandi**. The application by way of Chamber Summons is supported by a sworn affidavit of Mr.



Khamis Ramadhani Mvungi which the Respondent disputed and filed counter affidavit.

Brief facts that have given rise to the present application is that in 2015 the Applicant filed Application No. 44 in the District Land and Housing Tribunal (the Tribunal) claiming ownership of a piece of Land located at Uchira. The tribunal struck out the application with costs after the Respondents had raised the preliminary objection relating to non compliance with Regulation 392 of G.N 174/2003. The Respondent herein proceeded to file Bill of Cost No. 166 of 2018 claiming to be paid the sum of shillings 14,407,500/=. After hearing, the taxing officer granted shillings 10,367,500/=. Aggrieved, the Applicant preferred this Application.

At the hearing of the application parties consented the application be heard by way of filing written submission and the court so ordered. The filling schedule was set and the applicant was to file written submission in chief on or by 28/07/2020; while the respondents were to file reply of the

submission made by 11/08/2020; Rejoinder was to be filed on 18/08/2020 and the matter was set for mention on 18<sup>th</sup> August 2020.

When the application was called for mention on 18/08/2020 the applicant did not file submissions as ordered by the court and it was only the respondent who complied with the court order by filing their submission timely. To date, when the Ruling is ready for delivery it is on record the applicant is yet to file submissions.

It is opportune for me to point out from the outset the fact that, court orders are for compliance and non compliance amounts to abuse of court process.

It is evident from the records the fact that the applicant failed to comply with the filing order by this court. The law is settled when the court orders hearing by way of filing written submissions and a party fails to comply. There are numerous authorities on the fact, and the case of **Godfrey Kimbe V. Peter Ngonyani**, Civil Appeal No. 41 of 2014 CAT at Dar es salaam (unreported), is categorical in which



the Court of Appeal referring to its decision in **National Insurance Corporation of (T) Ltd & another V. Shengena Limited**, Civil Application No. 20 of 2007 and **Patson Matonya V. The Registrar Industrial Court of Tanzania & another**, Civil Application No. 90 of 2011 (both unreported), held that:

*"...failure by a party to lodge written submissions after the Court has ordered a hearing by written submissions is tantamount to being absent without notice on the date of hearing."*

As to non compliance of court orders in **TBL Vs Edson Dhoke, Misc. Application No. 96 of 2000 (Unreported)** it was held that;

*"Courts orders should be respected and complied with. Courts should not condone such failures. To do so is to set bad precedent and invite chaos. This should not be allowed to occur. Always courts should exercise firm control over proceedings"*




Based on the above principle and in the absence of any explanation from the applicant for failure to file written submissions, the only remedy available is for the application to be dismissed. Consequently the application is dismissed with costs for want of prosecution.

It is so ordered.

Dated and Delivered at Moshi this 9<sup>th</sup> day of October, 2020



  
**S.B. MKAPA**  
**JUDGE**  
**09/10/2020**