

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

**MISC. LAND APPLICATION NO. 07 OF 2019**

*(Arising from Misc. Land Application No.05 of 2018 of the District Land and Housing Tribunal at Kahama)*

**NYAMIZI HAMISI.....1<sup>ST</sup> APPLICANT**  
**JOHARI HAMISI.....2<sup>ND</sup> APPLICANT**  
**MGENI HAMISI.....3<sup>RD</sup> APPLICANT**  
**OMARY HAMISI.....4<sup>TH</sup> APPLICANT**  
**HASSAN HAMISI.....5<sup>TH</sup> APPLICANT**  
**MARIAM HAMISI.....6<sup>TH</sup> APPLICANT**

**Versus**

**KHADIJA SAID**(As Administratrix of the  
estate of the late **HAMISI IDD**).....1<sup>ST</sup> RESPONDENT  
**MHOJA NKWABI KABALO.....2<sup>ND</sup> RESPONDENT**

**RULING**

*Date of last order: 12.03.2020*  
*Date of Ruling: 12.03.2020*

**E. Y. MKWIZU, J**

This application is made under Order XXXVII Rule (1)(a) and section 68(e) and 95 of the Civil Procedure Code Cap 33 R.E 2002. It seeks for a temporary injunction restraining the 2<sup>nd</sup> Respondent from Disturbing the twenty two (22) tenants of the house on plot No.1 Block C with Title No.29983 located at Kahama.

When the matter came for hearing on 12<sup>th</sup> March, 2020, it transpired that the main suit under which the application was premised that is, Land Case No.5 of 2018 was dismissed on 10<sup>th</sup> April, 2019 for non appearance of the plaintiffs (Applicants) herein.

Mr. Roman Lamwai for the 2<sup>nd</sup> Respondent prayed that the application cannot stand, it should be struck out in view of the fact that its determination depended solely on the existence of the main sort in this case, Land Case No.5 of 2018 which is already dismissed. On their part applicant had nothing to say as the issue had a legal background.

Indeed, Land Appeal No.5 of 2018 was dismissed on 10/04/2018 for non appearance. Order XXXVII(I) requires the grant of temporary injunction to be where there is inexistent a suit. After the dismissal of Land Case No.5 of 2018 it is obvious that this application can not stand as it lacks legs to stand on.

For the above reason the application for temporary orders is hereby struck out with no Order as to costs.

It is so ordered.

