

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(TANGA DISTRICT REGISTRY)**

AT TANGA

MISC. CIVIL APPLICATION NO. 15 OF 2020

(Originating from the decision of the Resident Magistrate's Court of Tanga at Tanga in (Hon. Kamugisha, SRM) dated 30th March, 2020 in Execution No. 15 of 2018)

VETERINARY SERVICES PROFESSIONALS LIMITED.....APPLICANT

-VERSUS-

MHANDO SANGALI MWENDI.....RESPONDENT

RULING

Date of last order: 10/09/2021

Date of ruling: 22/09/2021

AGATHO, J.:

I have noted that the Respondent delayed filing the written submissions. He filed it on 31/08/2021 instead of 30/08/2021. Despite such delay substantive justice demands that we determine the application on substance not on technicality. This was an application for revision of the decision in Execution No. 15 of 2018 delivered on 30/03/2020 in which Kamugisha SRM refused to grant application to commit the respondent into Civil Prison.

The Applicant claims that the Respondent has been reluctant to honour the agreement to pay the Money by instalment. He has only paid TSH.

8,000,000/=. He has not paid the remaining amount about TSH. 15, 400, 000/=.

The decision by Kamugisha SRM refusing to detain the Respondent as a civil prisoner has led to the Respondent's behaviour of not respecting or honouring what he has agreed to do.

The Respondent has been claiming that his mother is sick but that cannot be justification for not paying the money he owes the applicant. Since the Respondent is not disputing that he owes the Applicant TSH. 15,400,000/=, and since I do not see any allegation or claims that he is poor. Looking at the Respondent's reply and submissions it is apparent that he is willing to pay the remaining sum by instalment. For that reason, this Court orders as follows:

- (1) That the Respondent shall pay the remaining sum of Money within five months from 22/10/2021 to 22/02/2022. He shall pay:
 - 1st instalment on 22nd October 2021 TSH. 4,000,000/=
 - 2nd instalment on 22nd November 2021 TSH. 4,000,000/=
 - 3rd instalment on 22nd December 2021 TSH. 4,000,000/=
 - 4th instalment on 22nd January 2022 TSH. 2,000,000/=
 - 5th instalment on 22nd February 2022 TSH. 1, 400,000/=
- (2) In case of failure or default to observe the instalment schedule as shown herein above the Respondent shall be detained as a civil prisoner as stated in the law.

- (3) The Respondent shall bear the costs of this application.
It is so ordered.

DATED at **TANGA** this 22nd Day of September 2021.




U. J. AGATHO
JUDGE
22/09/2021

Date: 22/09/2021

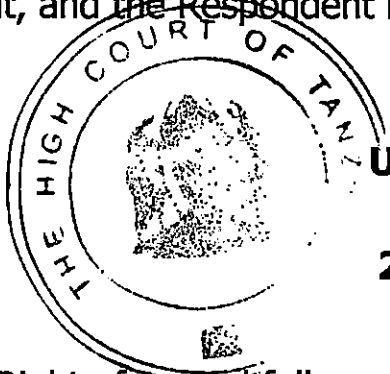
Coram: Hon. Agatho, J

Applicant: Advocate Makallo holding brief of advocate Mhimba

Respondent: Present

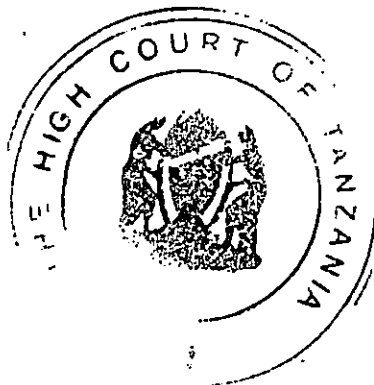
B/C: Zayumba

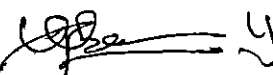
Court: Ruling delivered on this 22nd day of September, 2021 in the presence of the Advocate Makallo holding brief of advocate Mhimba for the applicant, and the Respondent in person.




U. J. AGATHO
JUDGE
22/09/2021

Court: Right of Appeal fully explained.




U. J. AGATHO
JUDGE
22/09/2021