

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE SUB-REGISTRY OF MWANZA
AT MWANZA

MISCELLENEOUS LAND APPLICATION NO. 24 OF 2022

ROSEMARY NICHOLAUS DUHIA.....APPLICANT

VERSUS

MUNICIPAL DIRECTOR& 2 OTHERS.....RESPONDENT

RULING

7th & 24th June, 2022

J. R. KAHYOZA, J.

Rosemary Nicholas Duhia and Nicholas M.F. Duhia instituted an application seeking this Court to issue an order to maintain *status quo* in respect of Plot No. 574, 579,580,581 block "B" Ilemela pending expiration of 90 days' notice to file the main suit.

Before the application was heard on merit, the third Respondent, Shufaa Athuman raised a preliminary objection through her advocate to the effect that: -

1. That the application is bad in law and premature for being contrary to section 6(2) of the Government Proceedings Act, [Cap. 5 R.E. 2019].

2. The application is premature for being filed without a main case.
3. That the application is brought under the wrong provisions of the law.

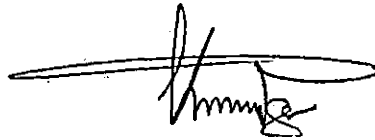
The preliminary objection was heard by way of written submission. While preparing the ruling I noted that the first respondent, the Municipal Director Ilemela Municipal Council with served with a 90 days' notice on the 18/03/2022. The record further shows that the Attorney General, the second respondent, was served with a 90 days' notice on 17/03/2022 while the third respondent served on the 17/03/2022. Given those facts, it is clear that 90 days have since expired from the date the applicant issued the mandatory notice under section 6 of the Government Proceedings Act (*supra*). If the applicants seriously intended to file a suit against the respondents they must have done so. For that reason, there is no urge to determine the preliminary objection and the application. To proceed to determine this matter will be for academic exercise as it will serve no purpose. It has been over taken by events.

I mark the application for maintaining status *quo* pending the expiry of a 90 days' notice as overtaken by event and strike it out. Costs shall be in due course if the applicants will institute the intended suit. If the

applicants will not institute a suit, the respondents will be entitled to costs of this application.

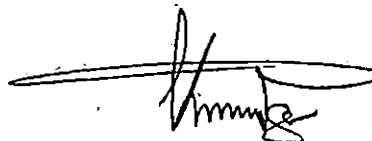
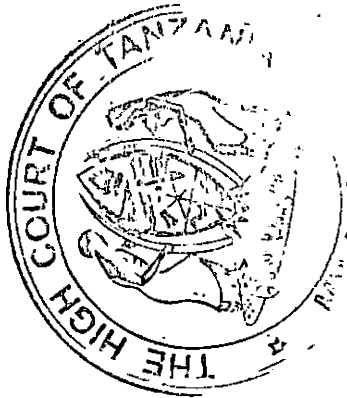
It is ordered accordingly.

Dated at Mwanza, this day of 24th June, 2022



**J. R. Kahyoza
JUDGE**

Court: Ruling delivered in the virtual presence of Mr. Idd, advocate for both applicants and Mr. William Muyumbu, advocate for the 3rd respondent and in the absence of the first and second respondents.



**J. R. Kahyoza
Judge
24/06/2022**