

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

SONGEA DISTRICT REGISTRY

AT SONGEA

MISCELLANEOUS CIVIL APPLICATION NO. 06 OF 2022

CHRISTOPHER MBAWALA ..... 1<sup>ST</sup> APPLICANT

SELEMAN CHANDE ..... 2<sup>ND</sup> APPLICANT

MARCUS MAHUNDI ..... 3<sup>RD</sup> APPLICANT

HAMIS KUBALI ..... 4<sup>TH</sup> APPLICANT

SAKINA HAULE ..... 5<sup>TH</sup> APPLICANT

VERSUS

SONGEA MUNICIPAL COUNCIL ..... 1<sup>ST</sup> RESPONDENT

THE ATTORNEY GENERAL ..... 2<sup>ND</sup> RESPONDENT

RULING

Date of last Order: 06/07/2022

Date of Ruling: 06/07/2022

**MLYAMBINA, J.**

The Court has been moved by the Applicants to grant a Mareva injunction restraining the first Respondent and or her agents, workmen or any other person working under her instruction from *inter alia* evicting the Applicants and occupying or taking possession of the suit premise; that is, the Manzese 'B' Market located at Songea Municipal pending the hearing of this application interparties. The application was made under *Order XXXVII Rule 1 (a) and (b), sections 68 (e) and 95 of the Civil Procedure Code [Cap. 33 R.E. 2019]* and *section 2 (3) of the Judicature*

*and Application of Laws [Cap. 358 R.E. 2019].* It is supported with a joint affidavit of Christopher Mbawala, Seleman Chande, Marcus Mahundi, Hamis Kubali and Sakina Haule on behalf of 304 Others.

In response to the application, the Respondents raised *a plea in limine litis* to the effect that:

- 1. The application is bad in law as it has been overtaken by events.*
- 2. The Applicants have no locus standi as the Written Authority to Plead, Appear and Act is incurably defective.*

On 6<sup>th</sup> July, 2022 when the application came for mention, learned Counsel Makame Sengo on behalf of the Applicants conceded that the application is bad in law as it has been overtaken by events. He however beseeched the Court to waive costs, a prayer which was not resisted by learned State Attorney Egidy S. Mkolwe for the Respondents.

In the premises of the above, the Court has no other option than, as it hereby, dismisses the application for been overtaken by events. By consent of both parties, let costs be waived. It is so ordered.

**Y. J. MLYAMBINA**

**JUDGE**

**06/07/2022**



Ruling delivered and dated 6<sup>th</sup> July, 2022 in the presence of learned Counsel Makame Sengo for the Applicants; learned State Attorneys Egidy S. Mkolwe, Emmanuel Bakari, Auto Liwolelu and Theresia Mbawala for the Respondents.



**Y. J. MLYAMBINA**

**JUDGE**

**06/07/2022**