

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

**AT SHINYANGA**

**LAND APPLICATION NO. 47 OF 2021**

*(Arising from Land Case No. 10/2021)*

**KALIWABO GENERAL TRADERS LIMITED.....APPLICANT**

**VERSUS**

**1.NATIONAL MICROFINANCE BANK PLC**

**2.MASAHAJU ENTERPRISES LIMITED**

} .....RESPONDENTS

**RULING**

21<sup>th</sup> April, 2022

**A. MATUMA, J.**

This application for temporary injunction pending hearing of the main suit is incompetent because such main suit is not named in the application itself.

In his submission advocate Martin for the Applicant argued that they have their main suit which is Land Case no. 10/2021 although they have not named it in the chamber summons or even in the supporting affidavit.

The submissions by the learned advocate for the Applicant that there is Land Case no. 10/2021 are baseless because even if such case is really there, there is nothing in the instant application which show that this application is tied to such Land Case no. 10/2021.

It is my firm finding that the Applicant should have mentioned such main suit in the instant application both in his chamber summons and in the affidavit accompanying the application.

The Court has always been reluctant to accommodate submissions by advocates or parties to the suit which intends to import some material facts not pleaded in the pleadings before the court.

I once rejected to accommodate such kind of submissions in the case of ***Joseph Juma versus Nasibu Hamis, Misc. Civil Application no. 48 of 2018*** in the High Court of Tanzania at Tabora. You may also see the decision in the case of ***Morandi versus Petro (1980) TLR 49*** which held that submissions made by the party are not evidence but arguments on the facts and law raised before the Court which are made without oath or affirmation and the party making them is not subject to cross examination by the opponent party.

Therefore, the submission by Mr. Martin learned advocate for the Applicant importing the fact that there is Land case no. 10/2021 are left to him for his own consumption as such fact is not pleaded anywhere in the instant application.

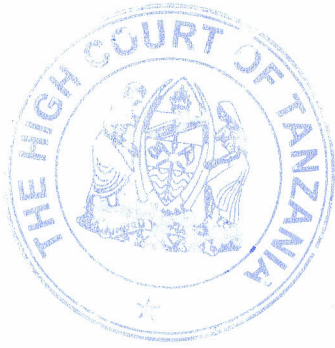
Temporary injunction order cannot be granted on air. It should be tied to the pending issue before the Court which is missing in this application.

I thus join hand with Dr George Mwaisondola learned advocate for the Respondents that this application is incompetent.

I accordingly struck it out without any costs as the issue was raised by the Court itself.

The Applicant if so wishes is at liberty to refile a competent application.

It is so ordered.



A handwritten signature in blue ink, appearing to read "A. MATUMA", is written over the printed name.

**A. MATUMA**  
**Judge**  
**21/04/2022**