

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE SUB- REGISTRY OF DAR ES SALAAM**

AT DAR ES SALAAM

MISC. CIVIL APPLICATION NO. 57 OF 2022

PROMATEX EST LIMITED APPLICANT

VERSUS

FRANK ROSE MAREALLE..... RESPONDENT

**(Arising from Misc. Application No. 107 of 2020
and Land Case No. 52 of 2019)**

RULING

20th and 20th April, 2022

KISANYA, J.:

On 14th February, 2022, the applicant, Promatex Est Limited filed a chamber summons seeking the following orders: -

- (a) That, the applicant be heard on the application for an order of stay of execution of proceedings in Misc. Application No. 107 of 2020 pending hearing and determination of Land Case No. 52 of 2019 before Hon. De-Melo, J,...*
- (b) Any other relief(s) that this Honourable court may deem fit and just to grant."*

In support of the application, the applicant filed an affidavit sworn by her principal officer namely, Julius Mwamba Baronga.

When this matter was called on for hearing today, the applicant was represented by, Mr. Julius Baronga who introduced himself as the applicant's director. On the other hand, the respondent was represented by Mr. Jonas Kilimba, learned advocate.

Before the hearing could commence, Mr. Barongo prayed to withdraw the appeal with no order as to costs. His prayer was based on the fact that Land Case No. 52 of 2019 which was the basis of this application had been determined in favour of the respondent. Save for costs, Mr. Kilimba has no objection to the prayer made by the applicant. He prayed that the costs be awarded against the applicant on the account that the respondent was inclined to incur costs of engaging an advocate who has already filed a counter-affidavit.

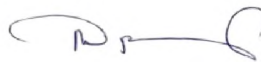
I have considered that the order for stay of execution sought in the chamber summons was subject to hearing and determination of Land Case No. 52 of 2019 which was pending in this Court. Since it is not disputed that the Land Case No. 52 of 2019 was not only heard and determined but also decided against the applicant, the present application has no legs to stand on. Indeed, the application and the orders prayed for have been overtaken

by events.

For the forgoing reasons, the application is hereby marked withdrawn at the instance of the applicant.

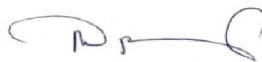
With regard to costs, I have considered that the application was filed when the Land Case No. 52 of 2019 was pending in this Court. It is not the applicant's fault that this application was not heard and determined before determination of Land Case No. 52 of 2019. That being the case, I make no order as to costs.

DATED at DAR ES SALAAM this 20th day April, 2022.



S.E. Kisanya
JUDGE

Court: Ruling delivered this 20th day of April, 2022 in the presence of Mr. Julius Baronga, director of the applicant and Mr. Jonas Kilimba, learned advocate for the respondent. BC Zawadi present.



S.E. Kisanya
JUDGE
20/04/2022

