

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(IN THE DISTRICT REGISTRY OF KIGOMA)

AT KIGOMA

LAND DIVISION

LAND CASE NO. 19 OF 2021

ZUBEDA E. NKALA -----PLAINTIFF

VERSUS

1. GILBERT S/O RUTAIHWA

2. UBWA S/O ATHUMANI

3. KIGOMA MUNICIPAL COUNCIL -----DEFENDANTS

4. ATTORNEY GENERAL

CONSENT JUDGMENT

03/08/2022 & 03/08/2022

MANYANDA, J.

The Plaintiff, Zubeda E. Nkala, filed this suit against the Defendants jointly and severally for judgement and decree as follows;

- i. A declaration that the suit property which initially was known as Plot No. 129/1 Block MD-Mwanga in Kigoma – Ujiji Municipal later on changed to Plot No. 277 Block MD-Mwanga is a lawful property of the Plaintiff.*
- ii. The Defendants be ordered to pay costs of this application.*



iii. Payment of Tanzanian Shillings Fifty Million only Tshs 50,000,000/=) as general damages.

iv. Any other relief(s) this Court deems just and fit to grant.

Whereas on 18/11/2021 the 1st and 2nd Defendants filed a joint Written Statement of Defence disputing all the claims of the Plaintiff. And whereas the 3rd and 4th Defendants also filed a joint Written Statement of Defence on 10/11/2021 disputing all the Plaintiffs claims.

And whereas on 03/08/2022 the 1st and 2nd Defendants filed a notice of preliminary objection to the hearing of the suit for non-joinder of a necessary party.

And whereas further, upon hearing the counsel for all parties that they have reached by amicable reconciliation, mediation and compromise, into a consensus agreement today to settle the dispute amicable out of court and have drawn a Deed of Settlement for that purpose that the 1st and 2nd Defendants withdraw the preliminary objection.

And upon the said Deed of Settlement, dully signed by both parties, been filed and registered in this Court under Order XXXIII Rule 3 of the Civil Procedure Code, [Cap. 33 R.E. 2019] today 03/08/2022.

Therefore, this court adopts the said Deed of Settlement and the same forms the judgement and decree of this Court in this case.

And this Court Orders thus:-

1. This case is settled upon the terms agreed in the Deed of Settlement that is;

- a) *That the 1st Defendant irrevocably agrees to make advance payment of Tshs 18,000,000/= (say Tanzania Shillings Eighteen Million only) to the Plaintiff as the price accrued from sale of Plot No. 129/1 Block MD, Mwangi Kigoma Ujiji Municipal for the purposes of being the final payment of settlement of the claim, in full satisfaction of the Plaintiff's claim in the said action.*
- b) *That the said amount will be paid in within a period of three months effective on 05th November, 2022, the 1st Defendant can initiate payment of the agreed sum within or before the 05th November 2022.*
- c) *That that 1st Defendant shall make the said payment through the Plaintiff's individual Bank Account which will be provided to the Defendants when the Deed of Settlement has been filed, and the matter has been dully withdrawn in court;*
- d) *The Plaintiff covenants that immediately upon the payment by the 1st Defendant as provided hereinbefore the matter will be*



effectively finalized, upon failure as agreed, the plaintiff effectively will execute this Deed of Settlement in court in order for the Court to compel the Defendants to comply with the deed herein and costs shall be on the shoulder of the Defendants.


e) The defendants shall not pay any money to the Plaintiff as costs of the suit.

f) That the payment will commence immediately and the 1st Defendant will continue paying the Plaintiff. The 1st Defendant will finalize the payment on 05th November, 2022.

g) The Plaintiff shall handover all the necessary documents concerning with Plot No. 129/1 Block MD, Mwanga in Kigoma-Ujiji Municipal to the 2nd Defendant upon finality of the payment on 05th November, 2022.

2. The case is marked settled.

It is so ordered.


MANYANDA

JUDGE

Consent Judgment delivered in the presence of Mr. Michael Mwangati, learned Advocate, for the Plaintiff, and the Plaintiff Zubeda A. Nkala present in court and in the presence of Mr. Thomas Msasa, learned

Advocate, for the 1st Defendant and 2nd Defendants and Gilber Rutaihwa and Ubwa Athuman also present in court and in the presence of Mr. Arnold Simeo, learned State Attorney, for the 3rd and 4th Defendants. The case is marked settled.

Dated at Kigoma this 03th day of August, 2022.




MANYANDA

JUDGE