

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF BUKOBA
AT BUKOBA**

CIVIL REVISION NO. 10 OF 2021

GOZBERTH LAURENT.....APPLICANT

VERSUS

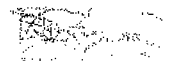
THEMISTOCLES DIDAS.....RESPONDENT

RULING

13th June & 17th June 2022

Kilekamajenga, J.

The applicant spotted the respondent having some local brew with his (applicant) wife. The applicant suspected the respondent for having an affair with his wife. While filled with anger, the applicant damaged the respondent's motorcycle. The respondent, thereafter, filed a criminal case against the applicant who pleaded guilty to the offence of malicious damaging to property. The applicant was convicted and sentenced to pay a fine of Tshs. 50,000/= or else serve a prison term of two years. Thereafter, the respondent sued the applicant claiming compensation for the damaged motorcycle and general damages. After the trial of the case, the applicant was ordered to pay Tshs. 2,000,000/= as costs for repairing the motorcycle and general damages at the tune of Tshs. 2,000,000/=. The trial court further ordered the applicant to pay 2% of the decretal sum from the date of judgment until the whole decretal sum

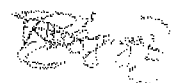


is fully paid, and costs of the case. The applicant unsuccessfully appealed to this court. The respondent applied for the execution of the decree of the trial court. The computation of the decretal amount plus interest led to the claim of Tshs. 8,800,000/=. Before attachment could be done, the applicant lodged the instant application.

The application was brought under **section 44(1)(b) and Section 43(3) of the Magistrates' Courts Act, Cap. 11 RE 2019** and **Section 95 of the Civil Procedure Code, Cap. 33 RE 2019**. In this application, the applicant prayed for the following orders:

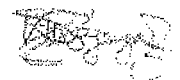
- 1. That this Honourable Court be pleased to exercise its revisional jurisdiction, to call and examine the records of proceedings and the orders thereof of the Resident Magistrates' Court of Bukoba in execution Proceedings of Civil Case No. 42 of 2016 for the purpose of satisfying itself as to the correctness, legality and/or propriety of the proceedings and orders made thereof.*
- 2. The Honourable court be pleased to set aside and quash the execution proceedings and orders there from Civil Case No. 42 of 2016.*
- 3. This application be granted with costs.*
- 4. Any other reliefs as this Honourable Court may deem fit and just to grant under the circumstances.*

When the parties were invited to argue the application, the applicant was present and enjoyed the legal services of the learned State Attorney, Mr. Ibrahim



Mswadick whereas the respondent appeared in person and without representation. Mr. Mswadick argued that, the applicant was supposed to pay Tshs. 4,480,000/= instead of Tshs. 8,800,000/=; this amount is the total sum of decretal sum plus interest. In response, the respondent simply stated that, the applicant caused all these costs and that he decided to exclude the costs of the case.

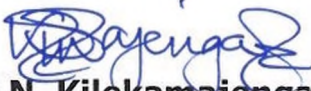
Having considered the submission from the parties and other information available in the voluminous file, I find no reason to waste precious time of this court for the obvious matter which just needs simple mathematical calculation. The applicant was ordered to pay a decretal sum of Tshs. 4,000,000/=. This amount of money includes Tshs. 2,000,000/= as costs for repairing the damaged motorcycle and Tshs. 2,000,000/= as general damages. The court further ordered the applicant to pay an interest of 2% of the decretal sum from the date of judgment until the decretal sum is pay. The simple calculation shows that, the 2% interest would attract an amount of Tshs. 80,000/= chargeable each year until the amount is fully paid. In this case, the decree of the trial court was issued in December 2016. That means, there are almost six years since the decree was issued which constitute an amount of Tshs. 480,000/=. Therefore, the due amount payable to the respondent until today is **Tshs. 4,480,000/=** instead of Tshs. 8,800,000/=. It is true that the respondent exaggerated the



amount to be paid. I hereby allow the appeal and order the execution of the trial court at the tune of Tshs. 4,480,000/= excluding the costs of the case ordered in the decree of the trial court. I award no costs to this application as the respondent also prompted this application by inflating the decretal amount. It is so ordered.

DATED at **BUKOBA** this 17th day of June, 2021.




Ntemi N. Kilekamajenga.
JUDGE
17/06/2022

Court:

Judgement delivered this 17th June 2022 in the presence of the counsel for the applicant, Mr. Ibrahim Muswadick and the respondent in present in person. Right of appeal explained.




Ntemi N. Kilekamajenga.
JUDGE
17/06/2022

