

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

LAND CASE NO. 22 OF 2021

HARIEL BERNARD TEMU @ BERNARD ELIPHALET TEMU PLAINTIFF

VERSUS

ROSE PERMENA URIO1ST DEFENDANT

NIXON ELIFALET TEMU2ND DEFENDANT

JUDGMENT ON ADMISSION

27/09/2022 & 27/09/2022

KAMUZORA, J.

The Plaintiff in this matter sued the Defendants for a declaration that he is a lawful owner of the farmland measuring 10 acres located at Imbaseny, Usa River Area within Arumeru District in the region of Arusha and a declaration order that the Defendants are trespassers to the disputed land. The Plaintiff also prays for permanent injunction order against the Defendants, their servants, agents or anybody/authority acting under their instruction from doing any activity in the disputed land which is bordered in the East with Maji ya Chai Road, West with Zulfiro Farm Estate, at the North its bordered with main road leading to

Momela and in the South its bordered with Zulfiroz farm limited. The estimated value of the suit property is Tshs. 400 million.

The brief facts of the matter albeit is that, on 15/07/1089 one Eliphalet Eliona Temu, the Plaintiff's father, purchased the suit land on behalf of the Plaintiff who was a minor and upon the Plaintiff attaining the age of majority he was handed over with the original documents for the purchase of the said farm. The suit land was in all occasion under the care of the 2nd Defendant who is the Plaintiff's brother and the 1st Defendant who is the wife to the 2nd Defendant. While the Plaintiff was in a process of effecting the transfer of the suit land to his names in the year 2020 it came to his knowledge that the Defendants claimed be owners of the disputed land as the 1st Defendant sued the 2nd Defendant in the Ward Tribunal of Imbaseny claiming that the suit land forms part of their matrimonial assets. That was followed by a matrimonial cause filed by the 1st Defendant before the Maji ya Chai Primary court in which the dispute property was listed as part of matrimonial properties. The plaintiff brought this suit claiming for reliefs above listed. After the pleadings were complete, the parties were subjected to mediation process which was nevertheless fruitless. The matter was then

scheduled to Final Pre-trial conference for purpose of determining the rights of the parties.

On the date the matter was called for Final Pre-trial Conference, Mr. Gwakisa Sambo, learned advocate appeared representing the plaintiff who was also present, Mr. Abdallah Ally, learned advocate appeared for the 2nd defendant and the 1st Defendant appeared in person. In the outset, before the Final Pre-trial Conference could commence, the 1st Defendant informed the court that she was admitting the claims by the plaintiff. Mr. Abdallah Ally on behalf of the 2nd plaintiff also joined hands with the 1st defendant and informed the court that the 2nd defendant was also in admission to the plaintiff's claims. Upon such admission, the Plaintiff prays for this court to enter judgment on admission as per Order XII Rule 4 of the Civil Procedure Code Cap 33 R.E 2019. He also finds no reason to push for costs since the Defendant's admission serves time for the court and the parties.

I have considered the pleadings, the submissions by the parties and the law specifically Order XII Rule 4 which is referred in this matter.

The said provision reads: -

"Any party may at any stage of a suit, where admissions of fact have been made either on the pleading, or otherwise, apply to the

court for such judgment or order as upon such admissions he may be entitled to, without waiting for determination of any other question between the parties; and the court may upon such application make such order, or give such judgment, as the court may think just."

In considering the above provision, it is clear that the Defendants herein have orally admitted to the Plaintiff's claim and based on their admission the counsel for the Plaintiff requested this court to enter judgment on admission in favour of the plaintiff. Being guided by the above provision, this court do hereby enter judgment on admission and declare that,

- 1) The Plaintiff is lawful owner of farmland measuring 10 acres located at Usa River Area within Arumeru District in the region of Arusha in Tanzania whose borders are as follows, East bordered by Maji ya Chai Road, West bordered by Zulfiroz Farm Estate, North Bordered with Main Road leading to Momela and South bordered by Zulfiroz farm limited.
- 2) The 1st and 2nd Defendants are trespassers to the suit land.
- 3) This court issue a permanent injunction against the Defendants, their agents, workmen or any other person acting under their

instruction from doing any activities and or disturbing the Plaintiff with his peaceful enjoyment of the suit land.

4) No order as to costs is made.

DATED at **ARUSHA** this 27th day of September, 2022



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

D.C. KAMUZORA

JUDGE

