

IN THE HIGH COURT OF TANZANIA UNITED REPUBLIC OF TANZANIA

(DAR ES SALAAM DISTRICT REGISTRY)

AT DAR ES SALAAM

LAND CASE NO. 42 OF 2019

ROSE ANDERSON KIDA

(Holding power of Attorney of ANDERSON NAFTHAL KIDAPLAINTIFF

VERSUS

ROSELINE IAN MOSHI.....1st DEFENDANT

ABEL NGALLABA.....2nd DEFENDANT

JOSEPH MATHEW MPOKI.....3rd DEFENDANT

RULING

MRUMA,J.

When this matter was called for orders before me on 29.4.2022, Mr. Mpoki, Counsel for the Plaintiff prayed for leave to amend the plaint for purposes of removing the name of Rose Anderson Kida (who was holding power of attorney of Anderson Naftal Kida who is reported dead) and replace her with the administrator of the estate. Mr. Mpoki informed the court that when the matter was called before Deputy Registrar on 29.3.2022, he intimated to the Deputy Registrar that he would make such

prayer, but she did not make it as the Deputy Registrar has no jurisdiction over the issue.

Responding to Mr. Mpoki's submissions Ms. Grace Ndela counsel for the first Defendant objected the prayer on the ground that leave to amend was granted way back on 14.3.2022 and it was to be complied with within seven days but Mr. Mpoki did not comply. Ms Ndela also brought to the attention of the court that on that very day court made an order to fix the matter for final pre-trial conference despite the fact that it had not reached that stage as no first pre- trial conference and mediation had been conducted.

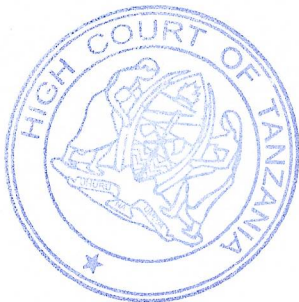
I have carefully gone through the submissions of the learned counsel. In the first place I agree with Ms. Grace that the Plaintiff's counsel was given seven (7) days to file an amended plaint, and also that instead of fixing the matter for first pre-trial and scheduling conference, the court fixed it for final pre- trial and scheduling conference which is two stages ahead.

Starting with the issue of seven days' time, Mr. Musa who together with Mr. Mpoki represents the plaintiff stated that the reason as to why they failed to amend and file the amended plaint in time is that the plaintiff was not in Dar es Salaam to sign the amended plaint. The counsel for the

Defendant did not counter that assertions – which otherwise I find to be good cause for delay.

On the court order which fixed the matter for final pre-trial and scheduling conference, it was an oversight on the part of the court which can be rectified by an order vacating that earlier order. I accordingly vacate orders made on 14.3.2022 as it was an oversight on the part of the court.

That said, this court doth make an order that the Plaint be amended by impleading the name of the administrator of the estate of the late Anderson Naftal Kida. The amended plaint should be filed within seven (7) days from today.




A.R.MRUMA

JUDGE

19/10/2022