

**IN THE HIGH COURT OF TANZANIA**  
**(DAR ES SALAAM SUB DISTRICT REGISTRY)**  
**AT DAR ES SALAAM**  
**CIVIL CASE NO. 143 OF 2019**

**TINDWA MEDICAL AND HEALTH SERVICES..... PLAINTIFF**  
**VERSUS**

**MARCAS DEBT COLLECTORS LIMITED.....1<sup>ST</sup> DEFENDANT**

**FARIDA RASHID.....2<sup>ND</sup> DEFENDANT**

**EX-PARTE JUDGMENT**

*Date of last order: 19/10/2022*

*Date of Judgment: 02/12/2022*

**E.E. KAKOLAKI, J.**

This ex-parte judgment is entered in terms of Order IX Rule 8 of the Civil Procedure Code, [Cap. 33 R.E 2019] following the defendants' default at different times to enter their defence against the claims levelled on the shoulders by the plaintiff.

Briefly the plaintiff Tindwa Medical and Services Limited, by way of plaint instituted the instant suit against the above-named defendants jointly and severally, for compensation by way of damages on account of trespass to property, trespass to goods, illegal distress, unlawful eviction, vicarious liability, breach of statutory duty and conversion, loss of reputation all arising

out of an eviction exercise that was carried out on the plaintiff's rented premises on 16<sup>th</sup> day of March 2019, in plot No. 894, at Msasani Beach area within Kinondoni District, Dar es salaam region. When served with the plaint, the second defendant filed a Written Statement of Defence denying any liability while deposing that, she has never purported to have ownership/interest or entitlement over the claimed plot No. 894, Msasani Beach Area but rather she is a legal owner of the plot No. 896 Msasani Beach Area as the eviction she authorized was to be and actually took place on her registered piece of land. Otherwise she put the plaintiff under strict proof of the allegations thereof and implored the court to dismiss the claims with costs. The 1<sup>st</sup> defendant's when served entered appearance in court on 22/10/2019 through her advocate Mr. Kassim Mussa but failed to enter her defence as a result on 01/07/2020 an order to proceed with her ex-parte was enter.

It is undisputedly learnt from the pleadings that, sometimes in December 2018, the plaintiff a company offering several health services and consultancies to different institutions and companies, entered into a three (3) years lease agreement with Mr. Honest Marandu, starting from 1<sup>st</sup> January 2019 in respect of a landed property situated on plot No. 894

Msasani Beach Area, for the purpose of carrying out her business therein. It appears the plaintiff occupied and enjoyed peaceful stay of the premises until on 16<sup>th</sup> March, 2019 when his agents while working, were invaded by the 2<sup>nd</sup> defendant's agent (the 1<sup>st</sup> defendant) allegedly accompanied with close to 50 hooligans and bouncers armed with various weapons, wrongful entered and illegally took possession of the suit property, ordered the plaintiff and its agents to vacate the suit premises before they forcefully and illegally removed the plaintiff and her agents belongings from the suit premises. It is alleged that, on demand from the plaintiff any lawful court order, demand notice nor permission warranting their invasion the defendants and their agents refused to produce any leave alone absence of assistance from either Tanzania Police force or the local government leaders of the area.

It is also asserted that, as a result of the defendants' wrongful act the plaintiff was deprived of lawful and peaceful use of the suit property which was used as her main office and headquarters of its countrywide operation of provision of medical evacuation, offering emergence services and other benefits arising therefrom, hence forced to shift to another office and acquire new equipment and furniture as some of them were damaged. Due to that illegal

eviction the plaintiff claims, she had suffered loss of earnings at the tune of TZS 3,000,000,000.00 from the date of eviction to the date of filing this suit, actual daily income to the tune of Tsh. 2,000,000.00 from the date of eviction to the date of filing this suit and continues to lose of daily income of TZs. 1,000,000.00 from the date of filing this suit until when her business stabilizes. It is on account of those circumstances the plaintiff in this suit seeks for the following reliefs:

- (a) Payment of Tsh.736,002,000.00 as loss suffered due to illegal and unprocedural eviction,
- (b) Interest on special damage at 24 % being the rate of interest of the plaintiff's bank from the date of eviction to the date of filling this suit,
- (c) General damages for trespass, breach of reputation and goodwill at an amount to be assessed by the court,
- (d) Aggravated damages on account of unlawful trespass to both land and goods, forceful eviction and conversion of plaintiff properties and those of its agents,
- (e) Exemplary and punitive damages,

- (f) interest on the decretal amount at 24% being the cost of interest on commercial banks from the date of filing the suit until the date of judgment,
- (g) Interest on special, general, aggravated and punitive/exemplary damages at 12% being the prevailing court rate from the date of Judgment until full satisfaction,
- (h) Cost of this suit and interest as agreed between parties or as taxed and interest thereon at 12% being the court rate.

Throughout the hearing of this case, both plaintiff and 2<sup>nd</sup> defendant were represented and enjoyed the legal services of Mr. John and Mr. Nashon Nkungu, learned advocate respectively. Before hearing could start, and upon consideration of pleadings the following issues were agreed by parties and framed by the Court for determination of parties' dispute in this matter:

- (1) Whether on 16/03/2019 or thereabout the plaintiff was evicted from plot No. 894 Msasani Beach area by the 1<sup>st</sup> defendant.
- (2) Whether the alleged eviction by the 1<sup>st</sup> defendant was carried out under the instruction of the 2<sup>nd</sup> defendant.
- (3) Whether following the eviction, the plaintiff suffered any damages, and if yes to what extent.

(4) what reliefs are the parties entitled to.

Plaintiff's case proceeded in the presence of both parties until when her case was closed and defence case ordered to proceed on 23/08/2022 and later on, on 19/10/2022 in the presence of both parties after it had failed to take off on 23/08/2022 on the ground that, it was declared a public hold for launching the 2022 national census. It however noteworthy that, when the case came for hearing on 19/10/2022 the plaintiff was present, but on the other side neither 2<sup>nd</sup> defendant nor her advocate appeared in court, and without any notification of their absence, hence a prayer by the plaintiff's advocate which was cordially granted that, ex-parte judgment be entered against the 2<sup>nd</sup> defendant as per the dictates of Order IX Rule 8 of the CPC [Cap 33 R.E 2019].

As alluded to above the 2<sup>nd</sup> defendant contested the claims levelled against her by the plaintiff as result to prove her case, plaintiff called two witnesses, Mr. Honest Medard Marandu (PW1) the leased property owner (landlord) and Joseph Suleman Ng'habi (PW2), the plaintiff's principal officer and relied on ten (10) exhibits.

In his evidence PW1 testified to the effect that, he leased his property to Tindwa Medical Health Service, and the agreement was signed on December,

2018 due to start from 1<sup>st</sup> January 2019 to December 2019, and the same was for 5 years on annual payments. He said, the leased house is located at Msasani Mwai Kibaki road close to Kwa Mwalimu Nyerere area, in plot No.894 and 896 though the house is built at Plot No. 894 and the other plot is used for parking of vehicles. This witness explained on how he acquired the said plots and how he came to know the people who sold him those plots. PW1 tendered two sale agreements for identification purposes which were received as ID1 collectively. He went on stating that, he was given the ownership documents which were issued by Dar es Salaam City Commission as right of occupancy to the vendors with the lease term of 33 years (exhibit PE1), though he did not process the title deeds but managed to obtain the building permit in the names of vendors and erected the house therein on which was completed in 2003 before he was transferred to South Africa and left occupants therein. He told the court that, in December 2019 tenancy agreement (exhibit PE2) was executed between him and the plaintiff in which the plaintiff occupied the suit premises with their own office furniture and equipment after few renovations to suit their demands such as office partition before they were invaded by the defendants on 16/03/2019. He said since he had neither any demand notice nor court order from the

defendant when informed by the plaintiff had to travel from Arusha to Dar es salaam before he involved the police force who ordered for entrance of the suit premises which was by then under defendants control and witnessed how his tenant was forcefully removed out of the premises with their properties. He said that he saw tables, chairs, computers and printers of the plaintiff removed out and destroyed. He went on testifying that, Tindwa HR informed him that the place is no longer suitable for the business, thus they had to find an alternative accommodation so they removed all their properties and handed the house keys to him. Later on, PW1 was informed that it is MARCUS DEBT COLLECTORS LTD which invaded the suit premises under instructions of the 2<sup>nd</sup> defendant. After confirming that fact, he started seeking for legal advice from B & E ACO Law advocates company) and instituted a land case No. 133 of 2019 before Kinondoni District Land and Housing Tribunal, which was never determined as the 2<sup>nd</sup> defendant instituted another case in this court Civil Case No. 88 of 2019, Dar es Salaam registry. In PW1's knowledge it is Farida Rashid (second defendant) who gave power of attorney to Marcus Debt Collectors to remove the plaintiff from the suit premises, though she is not claiming any right from the said plot No. 894 where the house is built. According to him, the invasion was

not legal as no legal authorization was ever issued to the invaders to substantiate their action which caused a lot of damage to him and his tenant. When subjected to cross examination by Mr. Nkungu on where due diligence was conducted by him at the Ministry of Land before purchasing the alleged plots, PW1 admitted that he did not and said was not aware whether there is existence of title deed in respect of Plot No. 896. as the documents were handed to him. He also admitted that there was a Civil Case No. 88 of 2019 between him and Farida in respect of the plots under dispute, in which he filed WSD which was as exhibit DE1. According to him, he was paying land rent in respect of Plot No. 896 but the receipts were issued in the name of Farida Rashid because he never effected transfer and change of names of former owners into his name. When pressed with futher questions he stated that, on 17/03/2019 when the place was re- invaded, plaintiff officers were inside the compound to guide their properties, he also admitted that, he once saw the handing of list of documents and properties between the plaintiff and 1<sup>st</sup> defendant. During Re- examination he admitted that he saw the notice of vacation issued by Marcus in the WSD.

Next in testimony was the second witness (PW2), the head of Emergency Medical Services Department in Plaintiff's Company. This witness started by

giving detailed testimony on the services offered by his company, its departments and types of the client served and her areas of operation. He informed the Court that, on 16/03/2019 at about 9:00 am while at work holding a management meeting, suddenly were invaded by bouncers who asked them to close their business and vacate the premises claiming that it was no longer their offices. When queried them as to why eviction without any notice the bouncers answered that they had instruction to remove the plaintiff from there and if anything Marandu (Pw1) should be asked as he was aware of that. It was PW2's testimony that, as they asked the invaders to communicate Mr. Marandu for operating under legal lease agreement, the invaders started to pull down the furniture and office items such as computers and printers before they moved into a small building outside used as storage of medical equipment (Emergence Medical Services – EMS) most of which are imported from outside Tanzania such as transport incubators, defibrillators (Heart attack stabilizer), sucking machines, vacuum machines, and AED- Automated External Defibrillators. He said the invaders mercilessly removed the said equipment and throw them away before the incident was reported to police and to the land lord who later on called at the scene. According to him, the guard officers from the Rock Forty Security were

brought at the scene and take control of the premises while leaving them outside the entrance gate but they managed to rescue their motor vehicle land cruiser, ambulances, laptops and staff cars though the same were crushed by the furniture that were thrown out.

PW2 went on testifying that, as they had spent only 2 and ½ months only, and spent rent of almost USD 4,200 out of annual rent of USD 20,400 per annum, could not be refunded as Mr. Marando had no money to reimburse them, at the same time they need to execute their functions such as remote site operations at EACOPP (Mobilization of resources) and ALISTAIR but they failed to perform due to high demand of quality services which included quality of motor vehicles and equipment. According to PW2, by that time, they had imported equipment for mobilization due for inspection by client so as to be issued with service agreements but the said inspection could not be conducted as they did not have office and storage facility in which they could conduct the exercise from. Secondly, they lost most of customers who came for service deals but they did not find the office. He said they had customers such as DIG BY WELL, which notified them of their intention to visit for inspection purposes but after being notified that they had no office, communicated their intention not to offer the contract. Thirdly he testified

the company had to pay staff who were not working apart from the loss they incurred for damaged newly purchased equipment which were damaged, hence unrepresentable to the clients. Further to that, he stated company's reputation as the company as the leading company in health care services and other services extended to International Organization and Government cooperation was damaged, as it was a scandal for them to be evicted which resulted to some of their clients to lose trust in them. He then explained various equipments they bought before and after eviction for replacement of the destroyed ones.

In proof of the above testimony, PW2 tendered in evidence the following exhibits namely;

1. Two letters from Digby Well, one expressing the intention to visit the plaintiff and another one for cancellation of the contract Exhibit PE3.
2. The notice of termination from MOTA ENGIL AFRICA, Exhibit PE 4.
3. Three (3) EFD receipts, two (2) delivery notes and five (5) proforma invoices and two (2) Tax invoices to prove that they bought the furniture before and after eviction, exhibit PE5.

4. Tax Invoice dated 6/12/2016 and EFD receipts from Culbin Ltd to exhibit purchase of generator which was damaged was worthy 29,700,000 exhibit PE 6.
5. The invoice from COMNET COMPUTERS dated 01/07/2019 proving purchase of printers and its accessories worthy Tsh. 4,030,000, exhibit PE 7.
6. Six invoices from COMNET COMPUTERS dated 2/7/2019, 4/6/2019, 15/07/2019, 18/07/2019, 11/09/2019 and 08/10/2019 to prove purchase of different ICT items and their accessories, to replace the damaged items exhibit PE8.
7. Invoice dated 14/09/2017 from Brighton Computers Technology the proving that they bought a computer that was damaged during eviction as it was thrown outside the office, the same was worthy 2,400,000 Exhibit PE9.
8. Lastly an invoice from the LAB equipment's Limited to prove medical items which were stored in the stores and the same were also damaged worthy 17,588,000/= Exhibit PE10.

In winding up, PW2 told the court that, they lost other documents otherwise they could tender more documents to prove the loss suffered. He said, in

consequence, plaintiff deserves compensation to the tune of 500 million basing on the documents tendered being for damage of their reputation, interest on the decretal amount until the date of full payment, punitive damages due to forceful eviction act.

When subjected to cross examination by Mr. Mtobesya learned advocate for the 2<sup>nd</sup> defendant, PW2 said he was not aware whether Mr. Marandu (PW1) was issued with the notice of vacation before eviction as they were not informed on that notice. When further pressed with questions to clarify on the difference between the invoice and receipt he responded that, invoice proves that the customer has purchased goods, and receipts proves that good were sold. When asked whether he brought in Court any inventory report to prove that, the removed items after eviction were out of use, or to exhibit the state of the items or furniture before eviction he said that he had tendered none. When further queried on whether the seized properties were handed back to the plaintiff, PW2 admitted that after eviction an inventory of items/furniture were prepared and Victoria Wilbard, Human resource officer to the plaintiff signed it. However he was quick to point out that, he is not sure whether the same was signed after verification. When shown

Exhibit PE4 as asked when the ambulances were to be mobilized he said, the same were to be mobilized on 20/03/2022 and not in 2019.

During re-examination by Mr. Seka, PW2 clarified that, it took them two months to secure another place. Concerning the Inventory, he said the same were lost during eviction process together with other documents proving purchase of different items. He said they were not notified of any notice of eviction until when they were forcefully evicted, thus were not given the right to protect their properties. That marked the end of plaintiffs' case.

Having narrated the plaintiff's evidence in extenso, I now proceed to determine the issues as framed by this Court. In so doing, I shall be guided by the principle governing proof of civil cases that, he who alleges has the duty to prove the allegations, the principle which is encompassed in sections 110(1) and (2) and 111 of the Law of Evidence Act, [Cap. 33 R.E 2022].

Similarly in civil proceedings, the party seeking to obtain judgment in his favour relying on certain facts also bears the evidential burden to prove their existence and the standard of proof is on a balance of probabilities or preponderance of probabilities. See the case of **Anthoni M. Masanga Vs. Penina (Mama Ngesi and Another** civil Appeal No 118 of 2014 CAT (unreported) and the case of **Paulina Samson Ndawavya Vs. Theresia**

**Thomasi Madaha**, Civil Appeal No. 53 of 2017 and section 3(2)(b) of the Law of Evidence Act.

With that knowledge in mind therefore, the noble task this court is called to do is to decide whether the burden of proof has been sufficiently discharged by the plaintiff to justify her claims.

Starting with the first issue as to *whether on the 16/03/2019 or there about the plaintiff was evicted from plot No. 894 Msasani Beach area by the 1<sup>st</sup> defendant.*

Having considered the available evidence in record I think this issue need not detain much this court. Going by the evidence of PW1, PW2 and lease agreement (exhibit PE2) is very clearly stated and exhibited that, the plaintiff rented PW1's house for a term starting in 1<sup>st</sup> January, 2019 to 31<sup>st</sup> December, 2023, for business purposes of offering medical services and emergence services. As per paragraph 1 of exhibit PE 2, the rented house is built in plot 894 Msasani Beach Mwai Kibaki Road, Mikocheni, Dar es Salaam Region Tanzania in which the defendant in her WSD does not even claim right or ownership. Further as per the testimony of PW1 and PW2, it is unchallenged fact that, on 16/03/2019 at 9:00, plaintiff's officers were evicted from the

said rented house by the 1<sup>st</sup> Defendant, Marcus debt collectors or her agents.

Thus, the 1<sup>st</sup> issue is answered in affirmative.

Next for consideration is an issue *as to whether the alleged eviction by the 1<sup>st</sup> defendant was carried out under the instruction of the 2<sup>nd</sup> defendant.* I

also feel that, this issue also need not take much of my time. As alluded to in the first issue, eviction was carried out by the 1<sup>st</sup> Defendant or her agents.

As the evidence stands nothing was tendered by the plaintiff to prove that the latter was acting under instructions of the 2<sup>nd</sup> defendant. Nevertheless,

the 2<sup>nd</sup> defendant in paragraph 4 of her WSD admitted with a disclaimer that, she initiated the same, but eviction was supposed to be affected in plot No.

896 and not otherwise. Guided by the case of **James Funke Gwagilo Vs.**

**Attorney General** (2004) TLR 161, which states that parties are bound by their pleadings, and having in mind PW1 and PW2's evidence that the

plaintiff occupied both plots in the same compound, plot No. 896 being the parking slots, it is apparent to me that, the eviction carried out by the 1<sup>st</sup>

defendant was with blessings of the 2<sup>nd</sup> defendant, thus she acted under 2<sup>nd</sup> defendant's instructions. The second issue is also answered in affirmative.

Moving to the third the issue it is queried *whether following the eviction, the plaintiff suffered any damages, and if yes to what extent.*

To respondent to this issue the plaintiff in this case is claiming payment of Tsh.736,002,000.00 as loss suffered due to illegal and unprocedural eviction, interest on special damage at the rate of 24 % being commercial bank interest rate from the date of eviction to the date of filing this suit, general damages on the amount to be assessed by the Court, aggravated damages, exemplary and punitive damages and interest thereon at the rate of 12% being the prevailing court rate from the date of Judgment until full satisfaction and costs of this suit.

According to PW2, that specific damage amounting to Tsh.736,002,000.00 aroused from the destruction done on the plaintiff's furniture, equipment/ items and cancellation of contracts of services by **Dig by well** and **Motal Engil Africa**, companies which the plaintiff was providing service to. To prove that allegation, PW2 tendered different invoices, tax invoices, 3 EFD machine receipts and letters of cancellation of agreements between her and the above-mentioned companies as exhibits PE2, PE3 collectively, PE4, PE5, PE6, PE7, PE8, PE9 and PE10.

It is the law that specific damages must be specifically pleaded and strictly proved. See the cases of **Masolele General Agencies Vs. African Inland Church Tanzania** (1994) TLR 192 and **NBC Holding Corporation Vs.**

**Hamson Mrecha**, Civil Appeal No. 35 of 1995 (2002) TLR 71. In **NBC Holding Corporation** (supra), at page 77 the Court deliberating on proof of special damages had this to say:

*"We think reasonableness cannot be basis for awarding what amounted to special damages, but strict proof thereof."*

Further to that as alluded above the standard of proof in civil cases is on balance of probabilities or preponderance of probabilities. The Court of Appeal in the case of **Berelia Karangirangi** (supra) on the principle governing proof of civil case cited with approval the case of **In Re B** [2008] UKHL 35, where Lord Hoffman stated as thus:

*"If the tribunal is left in doubt, the doubt is resolved by a rule that one party or the other carries the burden of proof. If the party who bears the burden of proof fails to discharge it, a value of 0 is returned and the fact is treated as not having happened."*

In the present case, Plaintiff in a bid to prove special damages of Tsh.736,002,000.00 as pleaded in paragraph 18 of the plaint, did not tender any inventory proving the status of the items and equipment before and after eviction. Further to that, going by the evidence of PW1 and PW2 it is uncontroverted fact that, there was handing over document/inventory of

properties removed from the suit premises between the plaintiff (Tindwa) and 1<sup>st</sup> defendant (Marcus debt collectors) whereby the plaintiff's Human Resources Officer signed it. In my profound view, it was necessary for the plaintiff to tender inventories proving the status of the alleged destroyed furniture, equipment/items before after eviction proving the goods which were out of use due to destruction caused by the defendants. In absence of that evidence, I am constrained to find that, doubts shade the Court on the status of the alleged destroyed plaintiff's furniture and equipment/items before and after eviction, hence the allegations remain unproved. Even when the said inventories were tendered still I would hold the claimed claimed specific damages of Tsh.736,002,000.00 was not proved. The reasons I am taking this stance is not far-fetched as apart from the EFD receipt proving the purchase of 45KVA Standby Diesel generator at the price of Tshs. 19,700,000 (exhibit PE6 collectively) in which there is no proof for want of inventory of equipment that it was at the site and got destroyed during forceful eviction, the plaintiff through PW2 tendering two unread EFD receipt tax invoices and proforma invoices claiming to prove that the plaintiff bought some equipment or items before and after eviction. The tax invoices and proforma invoices in my considered view do not prove the fact that the

alleged goods/equipment were in fact purchased leave alone the assertion of their distroyal as proforma invoice is the document from the supplier providing information of offered services or goods to the prospective buyer in turn of the inquiry made without invoice number, while the tax invoice notifies the buyer that the payment is due while indicating the prices of requested goods or services and the invoice number. In view of the above I am satisfied that the plaintiff has failed drastically to prove to this Court to the required standard that she suffered specific damages for having her furniture, equipment/items destroyed during forceful eviction exercise by the defendants. Further to that, I do not buy the plaintiff's assertions that, the inventories were lost during eviction as such unlawful act would have been reported at the police and the loss report tendered in Court to prove the same.

Concerning the loss of business resulted from cancellation of contracts between plaintiff and DIGBY WELL, as well as MOTAL ENGIL AFRICA as claimed by the plaintiff and evidenced by Exhibit PE3 and PE 4, the same also cannot stand as, apart from being pleaded there was no tendered evidence to prove to the Court is satisfaction as to how much was to be earned out them. I so find as it is the law also that, loss of business being

specific damage apart from being pleaded must be specifically proved, as it was well stated in the case of **Active Packaging (T) Limited Vs. TIB Development Bank**, Commercial Case No. 08 of 2019 at page 9. In this case this Court roared thus:

*Under item (iv) the plaintiff has claimed for Tzs.200,000,000/= being compensation **for loss of business and profit as a result of breach of agreement. This being claim under specific damages**, apart from the requirement that it has to be **specifically pleaded, it has to be strictly proved**. There is a long list of authority on that including the two referred by the defendant that of Bolag and Zuberi Augustino (*supra*), which I fully subscribe to.*

In the present case, plaintiff tendered letter which alleged cancelled the contracts of services as exhibit PE 3 and PE 4. However, the said letter were never annexed with the alleged cancelled contracts or prospected contracts with terms included to exhibit to the Court's satisfaction the amount of money in which she was likely to or would lose upon their cancellation. That aside, a glance of an eye to exhibit PE4, the same suggests that, the alleged cancelled contracts were supposed to be executed on 20 March 2022 and not at the time of eviction in March 2019, the fact which was admitted by PW2 when cross examined by counsel for the 2<sup>nd</sup> defendant Mr. Nkungu.

Basing on the above reasons, this court is without doubt satisfied that, the plaintiff suffered no specific damages at all, and if any was suffered, the same was not proved. With that conclusion the third issue is answered in negative.

Lastly is the fourth issue as to what relief are the parties entitled to. As it has been found herein above in the 3<sup>rd</sup> issue, the plaintiff's claims of specific damages have not been proved by the plaintiff to the standard required by the law which is on the balance of probabilities as stated in the case of **Paulina Samson Ndawavya** (Supra). Similarly there is no justification for awarding the prayed reliefs of aggravated and punitive/exemplary damages for want of materials to support them. However, as regard to general damages it is undisputed fact that, the defendant's eviction of the plaintiff was not justified as found in the 1<sup>st</sup> and 2<sup>nd</sup> issues above in which she had her belonging forceful removed from the suit premises without justification. It is also uncontroverted fact that out of the said unjustified eviction by the plaintiff perpetrated by the 1<sup>st</sup> defendant under instruction of the 2<sup>nd</sup> defendant, the plaintiff suffered loss as she had to relocate the office to another area. Obviously it took her sometimes to settle and re-instate her operation to fully pack as put by PW2, something which entitles her to

general damages. All she underwent considered I think the general damages of Tshs. 100,000,000/= will serve the purposes. In the event the plaintiff's claims succeed to the extent of awarding her general damages to the tune of Tshs. 100,000,000 against both defendants. The rest of the claims are unproved thus dismissed.

Each party to bear its own cost.

It is so ordered.

Dated at Dar es Salaam this 02<sup>nd</sup> December, 2022.



E. E. KAKOLAKI

**JUDGE**

02/12/2022.

The Judgment has been delivered at Dar es Salaam today 02<sup>nd</sup> day of December, 2022 in the presence of Mr. Sikujua Clement, advocate for the plaintiff, Mr. Nashon Nkungu, advocate for the 2<sup>nd</sup> defendant and Ms. Asha Livanga, Court clerk and in the absence of the 1<sup>st</sup> defendant.

Right of Appeal explained.



E. E. KAKOLAKI

**JUDGE**

02/12/2022.

