

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**  
**(IN THE DISTRICT REGISTRY)**

**AT MWANZA**

**Misc. LAND APPLICATION NO. 150 OF 2020**

*(Arising from the decision of the High Court Land Case No. 58 of 2017.)*

**REGISTERED TRUSTEE OF BAKWATA-----APPLICANT**

**VERSUS**

**MWANZA CITY COUNCIL----- RESPONDENT**

**RULING**

*Last Order: 01.06.2022*

*Ruling Date: 03.06.2022*

**M. MNYUKWA, J.**

This is a Misc. Land Application No. 150 of 2020 made under sections 38(1) and 95 of the Civil Procedure Code, Cap. 33 R.E 2019, whereas the Applicant Registered Trustee of BAKWATA, by way of Chamber Summons supported by Affidavit deposed by Ramadhani Haruna Chanila, a Regional Secretary of the applicant, moved this court to ascertain fair compensation payable unless the respondent accedes to negotiate and the costs of the application.

Briefly, the matter was that, the applicant filed a Land Case No. 58 of 2017 before this court over a disputed Plot No. 111 Block T, Kenyatta Road, Mwanza City where on 28.02.2019, the judgment was delivered in favour of the Applicant. The court declared the applicant as the lawful owner of the of the suit property. Thus, if the Respondent, Mwanza City Council was interested with suit landed property he had to follow the laid down procedure including payment of fair compensation.

When this application was filed, parties decided to meet and negotiate over the compensation but they never met and the applicant reminded the respondent to no avail. Since the amount of compensation was not stated on the decree, the applicant approached this court with a valuation report for the court to make orders as to its enforcement.

The applicant afforded the service of Masoud Mwanaupanga, learned advocate and the respondent preferred the service of Malick Mweneyuni, learned State attorney. The matter was heard orally and the applicant was the first to submit.

Mr. Masoud for the applicant prays this court to adopt the applicant's affidavits as part of his submissions. He went on to pray this court to give orders for the Respondent to pay the Applicant sum of Tshs. 598,000,000/= as compensation as shown in the valuation report.



Responding to the Applicant's submissions, Mr. Malick Mweneyuni conceded to the Applicant's prayers on the affidavit dated 25.11.2020 but differs slightly on the supplementary affidavit filed on 13.04.2022 specifically on paragraphs 4 and 5 since the valuation report attached has two figures. He enlightens that, the first figure is on page 14 of the report which amounts to Tsh. 539,000,000/= which is duly stamped with the Chief Government Valuer indicating that the value is authorised by the Government. He further states that, on page 17 of the the figure changes to 598,000,000/= as claimed by the applicant which is not authorised by the Chief Government Valuer and is not stamped.

He went on to state that, he consulted Mwanza City Chief Valuer who informed him that, the valuation stamped, must be the authorised valuation. For that reason, he went on that, if the applicant agrees to the correct value which is 539, 000,000/=, the Respondent has no objection and they can either compensate the applicant or return the plot as ordered by the court.

Mr. Masoud re-joins briefly as he avers that, he consulted Mr. Moshi Juma Shabani, a Regional Chairman of BAKWATA, a principal officer of the Applicant, who on behalf of the Applicant, agrees with the Respondent's submissions that the Applicant is ready to be compensated



at the tune of 539,000,000/= which is found to be legal and authorised valuation. He went on that, in case of default of payment by the respondent, the disputed plot No. 111 Block "T" Kenyatta Road, Mwanza, the Applicant be recognised as the lawful owner, as it was dully decided in Land Case No. 58 of 2017.

As hinted out, this application is a result of Land Case No. 58 of 2017 before this court which determined the dispute between parties. The Applicant was declared a winner and lawful owner of the disputed plot and the defendant was to compensate the applicant, if he wished to retain the disputed plot. This is evident in land Case No 58 of 2017 where the court decreed that: -

- I. *The suit is allowed.*
- II. *The defendant if at all are interested in the suit landed property has to follow the laid down procedures including payment of fair compensation to the holder of the right of occupancy.*
- III. *The reliefs sought in the plaint are granted to the extent that the plaintiff is declared the lawful owner of the suit land.*
- IV. *No order as to costs.*



In execution of the decree, the parties decided to negotiate and the respondent is willing to compensate the applicant. For the reason that has been indicated above, both parties have agreed to the valuation report filed and the amount stamped to be the authorised amount of Tshs. 539,000,000/= to be the sum that the Respondent in this application, Mwanza City Council, is required to compensate the Applicant in this application the Registered Trustees of BAKWATA for the respondent to retain possession on Plot No. 111 Block "T" Kenyatta Road Mwanza City.

As agreed by the parties, I proceed to grant the applicant's application and accord with the parties' agreed terms that, the Respondent Mwanza City Council to compensate the Applicant, the Registered Trustees of BAKWATA, Tshs. 539,000,000/= for the Respondent to retain possession over Plot No. 111 Block T Kenyatta Road Mwanza City within 90 days from the date of this order. Had the Respondent fails, shall give a vacant possession for the disputed plot as decided by this court that the suit property belongs to the applicant.

Order accordingly.

Based on the nature of the application, I give no order as to costs.





**M. MNYUKWA**  
**JUDGE**  
**3/06/2022**

**Court:** Ruling delivered in the presence of respondent's counsel and in absence of the applicant.

**M. MNYUKWA**  
**JUDGE**  
**3/06/2022**