

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE SUB - REGISTRY OF SONGEA**

AT SONGEA

CIVIL CASE NO. 11 OF 2022

TUNDURU DISTRICT COUNCIL 1ST PLAINTIFF

THE ATTORNEY GENERAL 2ND PLAINTIFF

VERSUS

ABDALLAH SALEH TUWEL DEFENDANT

CONSENT JUDGMENT

19th and 19th September, 2023

KISANYA, J.:

The above named plaintiffs instituted a summary suit against the defendant, Abdallah Saleh Tuwel, for unpaid service levy from 2017 to 2020. They prayed for the judgment and decree as follows:

- 1. Payment in full of TZS. 26,364,370.35 by the Defendant to the 1st Plaintiff being actual loss service levy from 2017 to 2020.*
- 2. The payment of 7% of the total due from the date of filing this suit to the date of judgment to be borne by the Defendant.*
- 3. General damages to the tune of TZS 200,000,000/= as this Honourable Court may deem fit to grant.*
- 4. The cost of the suit to be borne by the Defendant*

5. Any other reliefs as this Honourable Court may deem fit to grant.

The defendant was granted leave to enter appearance and filed his defence against the summary suit. In his written statement of defence, the defendant denied the plaintiffs' claims. He also raised a counterclaim for amount of money arising from diesel which he supplied to the 1st plaintiff (1st defendant to counterclaim) from 2020 to 2022. In his counterclaim, the defendant (plaintiff to the counterclaim), prayed for the following reliefs:

- 1. An order that the Defendants (plaintiffs to the main case) are in breach of the Agreement.*
- 2. An order that the defendants should pay the Plaintiff (defendant to the main case) the sum of Tanzanian Shillings 19,833,475 or set off the claim of service levy.*

However, on the 1st day of September, 2023, parties filed a deed of settlement which was executed on 23rd August, 2023.

When this matter was called on for orders today, Mr. Emmanuel Bakari, learned State Attorney appeared for the plaintiffs. He was also holding brief of Mr. Hilary Ndumbaro, learned advocate for defendant with instruction to proceed.

At the outset, Mr. Bakari informed the court that parties had settled the matter out of court and filed a deed of settlement to such effect. He then asked this Court to record and register the deed of settlement as forming the judgment and decree of the Court in accordance with the law. He also prayed that this matter be marked settled on the terms and conditions of the deed of settlement.

The foregoing prayer is governed by Order XXIII, Rule 3 of the Civil Procedure Code, Cap. 33, R.E. 2019. In terms of that provision, the duty of Court is to satisfy itself on whether the deed of settlement is lawful and compromises the suit in whole or in part.

Having glanced at the deed of settlement, I am satisfied that it is a lawful agreement which settles the dispute between the parties herein. In that regard, the said deed of settlement is recorded and adopted to form part of the consent judgment on the terms and conditions agreed thereto as rephrased hereunder:

1. That, the defendant shall pay the plaintiff a sum of TZS 11,000,000/= (settlement amount) in lieu of TZS 26,364,370.35 claimed in the main case.

2. That, as the defendant has already paid TZS 4,000,000/= of the settlement amount, the remaining balance of TZS 7,000,000 shall be paid in ten (10) instalments of TZS 700,000/= each.
3. That, the amount of each instalment under paragraph 2 above shall be paid on or before 23rd of each month effective from 23rd September, 2023.
4. That, parties agreed to live in peace and maintain their mutual relationship as it was before the commencement of the suit.
5. Upon execution of the deed of settlement, no party shall bring any claim previous, present or future against the other party concerning this suit, save the performance of terms and conditions of the deed of settlement
6. That, this deed of settlement is recorded as the decree of the Court.
7. That, each party shall bear its own costs.

In view thereof, I hereby hold that parties have resolved their dispute and mark this case settled on the compromise of the parties as per above terms of the Deed of Settlement.

It is so ordered.

DATED at SONGEA this 19th day of September, 2023



S.E. KISANYA
JUDGE

Court: Consent judgment delivered this 19th day of September, 2023 in the presence of Mr. Emmanuel Bakari, learned State Attorney for the plaintiffs and also holding brief of Mr. Hilary Ndumbaro, learned advocate for the defendant.



S.E. KISANYA
JUDGE
19/09/2023