

**IN THE HIGH COURT OF TANZANIA**

**(DAR ES SALAAM SUB - REGISTRY)**

**AT DAR ES SALAAM**

**MISC. CIVIL APPLICATION NO. 582 OF 2023**

*(Originating from the High Court's Civil Case No. 43 of 2020 delivered by Hon. Judge J. L.*

*Masabo, on the 18<sup>th</sup> day of February 2022)*

**ROAD FORCE LIMITED ..... APPLICANT**

**VERSUS**

**TIMOTHY WILLIAM ALIAS TIMOTHY**

**MASIRORI..... 1<sup>ST</sup> RESPONDENT**

**SUSANE KASEGE TIMOTHY..... 2<sup>ND</sup> RESPONDENT**

**NET FAMILY 2000 LIMITED ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

*6<sup>th</sup> December, 2023 & 7<sup>th</sup> February, 2024*

**MWANGA, J.**

This is an application brought under sections 95 and 96 of the CPC. The applicant is seeking an order of the court to rectify or correct the errors apparent on the face of the record in the judgment and decree issued by this court before Hon. Masabo, J. in favor of the applicant on

18<sup>th</sup> February 2022. The judgment originated from Civil Case No. 43 of 2020. The application is brought under chamber summons and supported by an affidavit of **Rajesh Kumar Shivji Aggarwal**, a duly authorized officer of the applicant.

During the hearing, the applicant was represented by Makori Lucas, learned counsel. The respondents were duly served but failed to appear, so the matter proceeded to exparte. In the course of the hearing, the applicant's counsel adopted the affidavit of **Rajesh Kumar Shivji Aggarwal**. The counsel submitted that the judgment in Civil Case No. 43 of 2020 is faced with apparent errors on the face of the record to wit;

- i. On the 1<sup>st</sup> page of the judgment and decree in paragraph 1, the judgment and decree reflected USD 1,200 instead of USD 12,000 as appears in the prayers of the plaint.
- ii. On the second page of the judgment paragraph 2 showed USD 120,300 instead of 120,000 USD.
- iii. On the fourth page of the judgment on page 4 paragraph 2, container No. RF012 dated 07/06/2013 appears twice; so, one shall be deleted.

- iv. On page four of the judgment in paragraph 2, the agreement for rent in container No. RF06 dated 07/06/2013 should read as RF 006 instead of RF06.
- v. On the same page 4 (paragraph 2) the agreement on container RF16 dated 08/10/2014 shall read as 19/02/2013 to reflect the plaint.
- vi. The name Suzan Kasege appearing on page 5 shall be dated because, in the plaint, such a name does not exist.
- vii. Container No. RF 0001, RFO 010, RF0013 and RF0037 and RF0016 shall read as RF001, RF010, RF013 and RF037 and RF016.
- viii. Container No. RF0002, in the second paragraph of page 6 of the judgment shall read as RF 002.
- ix. Container No. RF 0001, RF0010, RF0013, RF0037 as RF0016, on pages 6 and 7 of the judgment shall read as RF001, RF 1010, RF 013, RF 037, and RF 016.
- x. The second page of the decree in container No. RF0001, RF0013, RF0037, shall read as RF001, RF013, RF037.
- xi. Container No. RF0016 appearing on the second page of decree (ii) shall read as RF016.

- xii. The BOT exchange rate of Tshs. 2888.50 appearing on the second paragraph of the decree as well as page 6 paragraph 3 of Roman (i) of the judgment shall read as Tshs. 2,288.50 to reflect the prayers of the plaintiff.

Normally the application of this nature would be entertained by the Judge who delivered the judgement and passed the decree. However, Hon. Masabo, the Judge who delivered the respective judgment, is currently no longer stationed in this registry.

Given that, any other judge presiding over the matter is eligible to assume the same position and rectify the errors apparent in the face of the judgment and decree of the court. And the errors to be rectified must be obvious and patent mistakes. See the case of **Chandkant Jodhubhai Patel Vs R**, Criminal Appeal No.8 of 2004 TLR 2198. Further to that, clerical or arithmetical errors or mistakes can be rectified at any time and are not subjected to limitation of time. See the case of **Jewels Tanzania Ltd Vs National Shipping Agency** [19940] TLR 107.

I have read the affidavit sworn by **Rajesh Kumar Shivji Aggarwal** and considered the submission of the learned counsel Mr. Makori Lucas during the hearing. Admittedly, errors appearing on the judgment in Civil Case No. 43 of 2022 are obvious and patent mistakes

that do not need to be established by a long-drawn process of reasoning a point which may be conceivably two opinions.

For the interest of justice, and because the applicant is entitled to enjoy the fruits of the judgment and decree issued by this court, undoubtedly this court thinks fit to order and allow correction or rectification of the judgment and decree in Civil Case No. 43 of 2020 on the following areas;

- i. On the 1<sup>st</sup> page of the judgment and decree in paragraph 1, the judgment and decree shall appear as USD 12,000 instead of USD 1,200. as it appears in the plaint.
- ii. On the second page of the judgment paragraph 2 shall show USD 120,000 USD instead of USD 120,300.
- iii. On the fourth page of the judgment on page 4 paragraph 2, container No. RF012 dated 07/06/2013 shall be read as appearing only once. The repetition shall be deleted.
- iv. On page four of the judgment in paragraph 2, the agreement for rent in container No. RF06 dated 07/06/2013 shall read RF06 instead of RF 006

- v. On the same page 4 (paragraph 2) the agreement on container RF16 dated 08/10/2014 shall read as 19/02/2013 to reflect the plaint.
- vi. The name Suzan Kasege appearing on page 5 shall be deleted because such a name does not exist in the plaint.
- vii. Container No. RF 0001, RFO 010, RF0013 and RF0037 and RF0016 shall read as RF001, RF010, RF013, RF037 and RF016.
- viii. Container No. RF0002, in the second paragraph of page 6 of the judgment shall read as RF 002.
- ix. Container No. RF 0001, RF0010, RF0013, RF0037 as RF0016, on pages 6 and 7 of the judgment shall read as RF001, RF 1010, RF 013, RF 037, and RF 016.
- x. The second page of the decree in container No. RF0001, RF0013, RF0037, shall read as RF001, RF013, RF037.
- xi. Container No. RF0016 appearing on the second page of decree (ii) shall read as RF016.
- xii. The BOT exchange rate of Tshs. 2888.50 appearing on the second paragraph of the decree as well as page 6 paragraph 3 of Roman (i) of the judgment shall read as Tshs. 2,288.50 to reflect the prayers of the plaintiff.

It is so ordered accordingly.



**H. R. MWANGA**

**JUDGE**

**07/02/2024**