

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE SUB – REGISTRY OF MANYARA

AT BABATI

MISCELLANEOUS LAND APPEAL NO 4279 OF 2024

(Originating from the decision and order of the Assistant Registrar of Titles Babati, Manyara Region made under section 99 (1) of the Land Registration Act, Cap 334)

THE REGISTERED TRUSTEES OF MASJID AL-AZHAR AND MADRASAT AL-HAYATIL ISLAMIA..... APPELLANT

VERSUS

ASSISTANT REGISTRAR OF TITLES.....1ST RESPONDENT

ATTORNEY GENERAL.....2ND RESPONDENT

REASONS FOR THE RULING OF THE COURT

8th and 12th March, 2024

MIRINDO J.:

When the appeal came for hearing on 8th March 2024, the appellant, the Registered Trustees of Masjid Al-Azhar and Madrasat Al-Hayatil Islamia, appellant applied for an order to maintain the status quo in terms of the provisions of Rule 5(1) of Order 39 of the Civil Procedure Code [Cap 33 RE 2019]. The appellant was served with a notice to rectify the Land Register by the Assistant Registrar of Titles in Manyara Region. The notice directed the appellant to submit for cancellation the Certificate of Title No 9718 of the Land Registry Moshi within thirty days from the date of the issuance of the rectification notice, that is from 8th February to 8th March 2024. The thirty days



were to expire on 9th March 2024. After hearing the parties, I granted the order maintaining the status quo and reserved my reasons for doing so. I now give the reasons.

The appellant was represented by learned Advocates, Advocate Mr Hamisi Mkindi and Mr Nicodemus Mbugha. The respondents were represented by the learned State Attorney, Mr Hance Mmbando. The learned Advocate Mbugha argued that the provisions of Order 39 Rule 5(1) of the Civil Procedure Code empower this Court to the maintain status quo. He argued that, should the Assistant Registrar proceed with his intention to rectify the Land Register after 9th March 2024, the appellant will suffer irreparable loss. The loss is the nature of change of the name of the certificate of title from that of the appellant to that of Her Excellency the President of the United Republic of Tanzania. If that intention is carried the appeal before this Court will be of no essence.

The learned State Attorney, Mr Mmbando, had no objection. In my considered opinion, the immediacy of notice of rectification and its mandate to the appellant indicate that the change of registration of title may adversely affect the appellant. It was for these reasons that I granted the application.



A handwritten signature in blue ink, appearing to read 'F.M. MIRINDO'.

F.M. MIRINDO

JUDGE

12/3/2024