

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE SUB-REGISTRY OF MANYARA
AT BABATI

MISCELLENEOUS LAND APPLICATION NO. 75 OF 2023

YAKOBO SALI SARAWU1ST APPLICANT
TITO SALIMU MIHAYO2ND APPLICANT
JOHARI ARAJIGA 3RD APPLICANT
DANIEL A. BANGA4TH APPLICANT
CHRISTINA AMMA SANKA5TH APPLICANT

VERSUS

TANZANIA FOREST SERVICE AGENCY1ST RESPONDENT
SINGIDA DISTRICT COUNCIL2ND RESPONDENT
HANANG DISTRICT COUNCIL3RD RESPONDENT
THE ATTORNEY GENERAL4TH RESPONDENT

RULING

6th & 20th March, 2024

Kahyoza, J.:

Yakobo Sali Sarawu, Tito Salimu Mihayo, Johari Arajiga, Daniel A. Banga and Christina Amma Sanka (the applicants) instituted an application seeking this Court to issue an order for temporary injunction against **Tanzania Forest Service Agency, Singida District**

Council, Hanang District Council, and the **Attorney General** (the 1st, 2nd, 3rd and 4th respondents) to restrain them from entering and burning the applicants' houses pending the filing of the main suit after the expiry of 90 days.

The application was heard by way of written submissions, the parties complied with the schedule of filing the written submissions. While preparing the ruling I noted from the applicants' affidavit that they served respondents with a 90 days' notice on 29. 11.2023. It is self-evident from the date of service which the respondent did not negate, 90 days expired on 27. 2.2024. The applicants' prayer to this court is for an order to restrain the respondents from entering onto their premises and setting blaze their houses, until the expiry of a 90 days' notice to sue. For 90 days from the date the applicants served the notice, have already expired this application has been overtaken by events.

If the applicants seriously intended to file a suit against the respondents they must have done so. For that reason, there is no urge to determine the application. To proceed to determine this matter will be for academic exercise as it will serve no purpose. It is beyond dispute that this Court's granted the order sought, the injunction would not have gone

beyond 90 days from the date of notice as prayed. A party to a suit cannot be granted what he has not prayed for.

In the end, I mark the application for maintaining status *quo* pending the expiry of a 90 days' notice as overtaken by event and strike it out. Costs shall be in due course if the applicants will institute the intended suit. If the applicants will not institute a suit, the respondents will be entitled to costs of this application.

It is ordered accordingly.

Dated at Babati, this day of 20th March, 2024



A handwritten signature in black ink, appearing to read 'J. R. Kahyoza', written over a horizontal line.

J. R. Kahyoza
JUDGE

Court: Ruling delivered in the virtual presence of **Yakobo Sali Sarawu**, the first applicant and **Daniel A. Banga**, the 4th applicant, Ms. Fransisca Legeju, the applicants' advocate and in the absence of the rest. B/C Ombeni present virtually.

A handwritten signature in black ink, appearing to read 'J. R. Kahyoza', written over a horizontal line.

J. R. Kahyoza
Judge
20/03/2024