

**IN THE HIGH COURT OF TANZANIA
COMMERCIAL DIVISION
AT MWANZA
COMMERCIAL CASE NO. 14 OF 2019**

BANK OF BARODA TANZANIA LIMITED PLAINTIFF

VERSUS

E.J.J. CATERING & GENERAL SUPPLY.....1ST DEFENDANT

DEOGRATIAS MGEMA @ DEOGRATIAS ENOSY MIROBO2ND DEFENDANT

NEEMA DEOGRATIAS MIROBO.....3RD DEFENDANT

JOHN M. MGEMA4TH DEFENDANT

Last Order 29th Sept, 2020

Date of Judgment 2nd Nov, 2020

SUMMARY JUDGEMENT

FIKIRINI, J.

The essence of summary suit is to prevent unnecessary delays by the defendants who essentially have no defence to mount.

In this case the defendants despite several summons including substituted service by way of publication in the Mwananchi Gazette dated 16th March, 2020, have ignored to enter appearance or apply for leave to defend the suit instituted against them.

This suit arises out of an overdraft facility advanced by the plaintiff. The said facility was secured by the number of legal mortgages in favour of the plaintiff as enumerated in the plaint, a first ranking of chattel mortgage in

favour of the plaintiff over the defendants' fixed and floating assets registered to secure TZS 93,750,000/= and personal guarantees of the 2nd, 3rd & 4th defendants.

The scenario in this suit is completely as that illustrated in the case of

CRDB Bank Limited Versus John Kagimbo Lwambagaza [2002]

T.L.R 117, where the court clearly elucidated on the application of Order XXXV – Summary Procedure. Therefore pursuant to Order XXXV Rule (1) (c) and (2) and (3) of the CPC as Amended, 2019 proceed to grant and order for summary judgment and grant reliefs as prayed with costs.

P.S. FIKIRINI

JUDGE

02/11/2020

Order:

Summary Judgment entered in favour of the plaintiff with costs.




P.S. FIKIRINI

JUDGE

02/11/2020