

IN THE HIGH COURT OF TANZANIA

(COMMERCIAL DIVISION)

AT DAR ES SALAAM

COMMERCIAL CASE NO 62 OF 2013

BETWEEN

BANK OF AFRICA TANZANIA LIMITED.....DECREE HOLDER

Versus

MARTIN MATIKU t/a

MART COMMERCIAL TRADING COMPANY 1st JUDGMENT DEBTOR

DEADATUS COSTATINE MONJI.....2nd JUDGMENT DEBTOR

AFRICA PROPERTY LTD.....3rd JUDGEMENT DEBTOR

Date of last order: 28th October, 2021

Date of Ruling: 21st December, 2021

RULING

MKEHA, J.

When on 11/10/2021 the judgement debtor was invited to show cause as to why he should not be committed to prison as a civil prisoner for failure to pay the decretal sum, his response was that, he is claiming

some money from Mbulu District Council, Bahi District Council and Morogoro District Council.

The judgment debtor urged the court to give him time within which to settle the debt. He asked for two months' time.

Mr. Mganyizi learned advocate for the decree holder submitted in reply by insisting that, it would only be fair to grant the application for execution especially when one considers the fact that the decree had remained unsatisfied for five years since when it was passed

The only determinative issue is whether the judgement debtor has given sufficient cause as to why an order allowing execution should not be passed. As a matter of fact, there is no order for stay of execution of the decree holder's decree. The fact that the respondent has some debts to collect from other persons has no bearing to the present application.

I therefore hold that, the judgment debtor has failed to show cause as to why he should not be committed to prison as a civil prisoner, for his failure to pay the decretal sum. The application is granted in the manner prayed, that is, by arresting and detaining Mr. Martin Matiku as a civil prisoner. Unless the said person soon pays the decretal sum, he shall be arrested and detained as a civil prisoner. Three months period is given to the said Martin Matiku to pay decretal sum. Upon expiry of the said

period without payment of the decretal sum, the decree holder will be invited to deposit the first instalment of monthly allowance for civil prisoner's up keepin prison. The allowance is determined at TZS. 300,000/= per month. It is so held.

Dated at Dar es salaam this 21st day of December 2021




C.P MKEHA

JUDGE

21/12/2021

Court: Ruling is delivered in the presence of Mr. Chingota learned advocate for the decree holder.




C.P MKEHA

JUDGE

21/12/2021