

IN THE HIGH COURT OF TANZANIA

(COMMERCIAL DIVISION)

AT DAR ES SALAAM

COMMERCIAL CASE NO. 70 OF 2020

BETWEEN

DIAMOND TRUST BANK TANZANIA LIMITED..... PLAINTIFF

AND

RIAZ GANGJI t/a ABBAS EMPORIUM..... 1st DEFENDANT

**RIAZ GULAMABBAS GANGJI (as administrator of the late GULAMABBAS
RAJABALI GANGJI)2nd DEFENDANT**

RIAZ GULAMABBAS GANGJI

**(as the administrator of the late MARIAM GULAMABBAS RAJABALI
GANGJI.....3rd DEFENDANT**

ASMA GULAMABBAS GANGJI.....4th DEFENDANT

MOHAMMED AHMED MOHAMED.....5th DEFENDANT

Date of last order: 25th April, 2022

Date of Judgment: 25th April, 2022

CONSENT JUDGMENT

MKEHA, J.

In this case, the plaintiff filed a plaint for the following orders and reliefs:

- (i) Declaration that the 1st defendant is in breach of the Credit facility;
- (ii) Judgment in favour of the plaintiff against the 1st 2nd 3rd 4th and 5th defendants for payment of TZS 5, 549,655,300.52 (Tanzania Shillings Five Billion Five Hundred Forty -Nine Million Six Hundred Fifty- Five Thousand Three Hundred Fifty- Two Cents) being outstanding amount in the credit facility respectively as of 31st May 2020;
- (iii) Interest at an agreed commercial rate on the outstanding amount stated above from the date of filing this suit to the date of judgment;
- (iv) Interest on the decretal sum at the court rate of 12% from the date of judgment to the date of full satisfaction;
- (v) General damages to be assessed by this Honourable court;
- (vi) The defendants jointly and severally be ordered to pay the costs of this suit and
- (vii) Any other relief as the court may deem convenient and equitable to grant.

When the suit was ripe for hearing, but before the commencement of hearing the parties executed a deed of settlement to end their dispute.

The said deed of settlement was filed before this court under Order XXIII Rule 3 of the Civil Procedure Code. On this 25th day of April 2022, the parties through their legal representatives, Mr. Kimaro for the plaintiff and Ms. Karoli for the defendants have appeared before this court asking it to record their deed of settlement as forming part of the judgment and decree of the court.

Having been satisfied that the deed satisfies the requirements of the law under Order XXIII Rule 3 of the Civil Procedure Code, that is, having been satisfied that there is really an agreement of the parties for the compromise, which agreement is not a result of fraud or misrepresentation, deducing from the deed of settlement filed herein in court, the court hereby enters consent judgment and passes consent decree in favour of the plaintiff in the following terms:

- (i) By consent of the parties, the outstanding amount payable to the plaintiff by the defendants shall be the restructured amount of TZS. 1, 800,000,000 (Tanzanian shillings One Billion, Eight Hundred Million) in respect of the first term loan facility issued to the first defendant. The same shall be payable at an interest rate of sixteen -point five percent

(16.5%) at monthly instalments of TZS 30, 100,000.00 for the term of ten (10) years effective from June 2022.

- (ii) By consent of the parties, the outstanding amount payable to the plaintiff by the defendants in the second loan facility issued to the 1st defendant shall be the restructured amount of TZS 2,631,000,000 (Tanzanian Shillings Two Billion Six Hundred and Thirty- One Million.) The same shall be paid in bullet at an interest rate of Sixteen -point five percent (16.5%) in ten years from the 25th day of June 2022 without default.
- (iii) By the consent of the parties, the accrued and unpaid interest since when the facilities fell into default in the year 2019 are waived.
- (iv) Should the defendants default to pay any of the instalments as per paragraphs (i) and (ii) above, the plaintiff shall issue thirty (30) days' final notice after the expiry of which the plaintiff, shall proceed to auction the securities to recover the whole outstanding amount at the time of default including accrued penalty interest and charges thereon.

DATED at DAR ES SALAAM this 25th day of April 2022.




C.P MKEHA

JUDGE

25/04/2022

Court: Delivered in the presence of Mr. Kimaro learned advocate for
the plaintiff and Ms. Karoli learned advocate for the defendants

this 25th day of April, 2022.




C.P MKEHA

JUDGE

25/04/2022