

**IN THE HIGH COURT OF THE UNITED REUBLIC OF  
TANZANIA  
(COMMERCIAL DIVISION)  
AT MWANZA**

**COMMERCIAL CASE NO. 1 OF 2022**

SME IMPACT FUND CV.....PLAINTIFF

VERSUS

MWAMINIFU INVESTMENT COMPANY LTD.....1<sup>ST</sup> DEFENDANT  
DOMICIAN FELICIAN RWEKIZA.....2<sup>ND</sup> DEFENDANT

Last order: 07<sup>TH</sup> JUNE, 2022  
Judgment: 08<sup>TH</sup> JUNE, 2022

**CONSENT JUDGEMENT**

**NANGELA, J.**

This consent judgment arises from a Plaint filed by the Plaintiff on the 28<sup>th</sup> January 2022. In the Plaint, the Plaintiff seeks for judgment and decree of the Court against the Defendants jointly and severally as here below:

1. That, the Defendants be ordered to pay the Plaintiff a sum of TZS 73,662,000.00 being an principal sum plus accrued interest and penalties as at 13<sup>th</sup> December 2021.
2. That an order of Attachment and Sale of the Properties on Plot Number 198 Block B R Nyatukala Sengerema and Plot Number 261 Block "W" Bukala Industrial Area,

Sengerema, be made by this Court.

3. That, the Defendants be ordered to pay to the Plaintiff interest accrued from the principal amount at a rate of 7% interest on the outstanding sum from 13<sup>th</sup> December 2021 up to date of Judgment.
4. That, the Defendants be ordered pay the Plaintiff interest on the decretal amount at the Court's rate from the date of Judgment to the date of full payment.
5. Payments of cost of the suit and,
6. Any other relief as this Court deems fit.

On the 25<sup>th</sup> February 2022, the Defendants filed a joint written statement of defence noting some of the averments in the Plaint and disputing others and calling the Plaintiff to strict proof thereof. The matter went through to the first pre-trial conference and mediation. Unfortunately mediation failed. However, as the suit was progressing towards a final pre-trial conference, the parties became wiser and engaged in settlement negotiations.

On the 08<sup>th</sup> day of June 2022, a date when the matter was fixed for a final pre-trial conference, the parties filed their Deed of Settlement under Order XXIII Rule 3 of the Civil Procedure Code, Cap.33 R.E 2019, detailing how the parties have agreed to settle their differences amicably.

Appearing before the Court on the material date, was Mr Geoffrey Kange, learned advocate, who appeared for the Defendants and was also holding brief for Mr. Davis Muzahura, learned Advocate, for the Plaintiff. In court as well were Mr Jovitus Rutakinikwa, a Risk Manager of the Plaintiff and Mr Domician Felician Rweikiza, the second Defendant and who also serves as the Director of the 1<sup>st</sup> Defendant.

Mr. Kange addressed this Court informing it that, on 08<sup>th</sup> of June 2022, the parties filed a deed of settlement which he was requesting that, it be registered as forming the Judgment and Decree of this Court in accordance with the requirements of the law. According to Order XXIII Rule 3 of the Civil Procedure Code, Cap.33 R.E 2019, the Court will have to be satisfied whether the agreement is lawful and compromises the suit in whole or in part. Order XXIII Rule 3 provides as follows:

"Where it is proved to the satisfaction of the court that a suit has been adjusted wholly or in part by any lawful agreement or compromise, or where the defendant satisfies the plaintiff in respect of the whole or any part of the subject matter of the suit, the court shall order such agreement, compromise or satisfaction to be recorded, and shall pass a decree in accordance therewith so far as it relates to the suit."

I am also reminded of the decision of the Court of Appeal in the case of **Motor Vessel Sepideh and Another vs. Yusuf Mohamed Yussuf and two Others** (Civil Application No.237 of 2013) (unreported) where the Court stated that:

"where there is a lawful agreement or compromise the court is bound to record a settlement once it is arrived at by the parties."

Having gone through the said "Deed of Settlement" I find that it has complied with the requirement of the law and does wholly settle the dispute between the parties. Consequently, I hereby proceed to record and declared it to be forming part and parcel of this Consent Judgment of the Court, as well as its decree.

The present suit, therefore, is marked settled at the instance of the parties and in accordance with their agreed terms and conditions set out in the Deed of Settlement executed and filed in this Court on this 08<sup>th</sup> day of June 2022. The Deed of Settlement, therefore, forms part and parcel of this Consent Judgment's Decree.

**It is so ordered**

DATED AT MWANZA ON THIS 08<sup>TH</sup> DAY OF JUNE 2022



A handwritten signature in black ink, appearing to read "Deo John Nangela".

**HON. DEO JOHN NANGELA  
JUDGE**