

**IN THE HIGH COURT OF TANZANIA  
(COMMERCIAL DIVISION)  
AT DAR ES SALAAM  
COMMERCIAL CASE NO. 124 OF 2021**

**PLASCO LTD ..... PLAINTIFF**

**VERSUS**

**LEAL CONSTRUCTION COMPANY LTD ..... DEFENDANT**

**Date of last order: 06<sup>th</sup> July, 2022**

**Date of Judgment : 1<sup>st</sup> August, 2022**

**DEFAULT JUDGMENT**

**MKEHA , J.**

The Plaintiff is a limited liability company incorporated under the laws of Tanzania. The Plaintiff engages in amongst other business, production and selling of pipes and fittings. On the other hand, the Defendant is a limited liability company also registered under the laws of Tanzania. The Defendant conducts its business in Dar es Salaam City.

The Plaintiff's claims against the Defendant is for payment of Tanzania Shillings **Eighty Million, Six Hundred Seventy Three Thousands, Nine Seventy Five Hundred and Thirty Six Cents (TZS 80,673,975.36/=)** being the outstanding amount in respect of supply of

pipes and fittings to the Defendant whereby the Defendant failed/neglected to pay.

In terms of the plaint, the plaintiff had supplied pipes, fittings and other building materials worth TZS 90,673,975.36. The said supply was preceded by credit application by the Defendant and signing of credit agreement by the parties. After maturity of the credit amount, the plaintiff raised an invoice to the Defendant for payment of the amount due. According to the plaint, out of the whole credit amount, the Defendant ended up settling TZS 10,000,000/= only.

Upon institution of this suit, the Defendant was served with a summons to file Written Statement of Defence. Affidavit evidencing service of summons to the Defendant was filed in court. Whereas the Defendant was served on 02/05/2022, up to 09/06/2022, the Defendant had not filed Written Statement of Defence. On 09/06/2022, Mr. David Elisha learned advocate for the plaintiff prayed that, he be allowed to file an application for default judgment. The said prayer was granted.

On 24/06/2022 an application for default judgment was filed. Along with the said application, an affidavit regarding proof of the claim was filed.

The affidavit for proof of claim indicates how the Defendant made an application for the credit. An original credit application of the Defendant to the plaintiff, an original credit agreement between the parties, copies of emails requesting for additional goods from the Defendant to the plaintiff, original invoices raised by the plaintiff and copies of delivery notes and demand notice of the plaintiff to the Defendant were made as annexures to the affidavit regarding proof of the plaintiff's claims.

The documents relied upon and the affidavit indicate that, up to the time of institution of this suit in court, the Defendant was indebted to the plaintiff to the tune of TZS 80,673,975.36/=

Reliance being put on the pleadings, documents relied upon by the plaintiff and paragraphs 4 to 11 of the affidavit for proof of the claim, I hold that, the conditions for granting a default judgment are in existence. For the foregoing reasons default judgment is entered in favour of the plaintiff in the following terms:

- a) A declaration is made that the Defendant has failed to settle the outstanding amount as required by the Credit Agreements and the Defendant is in breach of the Agreements.

- b) The Defendant is ordered to pay to the plaintiff, Shillings **Eighty Million, Six Hundred Seventy Three Thousands, Nine Seventy Five Hundred and Thirty Six Cents (TZS 80,673,975.36/=)** being the outstanding amount for the goods supplied on credit to the Defendant.
- c) The Defendant to pay interest at court rate of 7% per annum from date of Judgment to date of full payment.
- d) The Defendant is condemned to bear costs of the suit.

Dated at DAR ES SALAAM this 01<sup>st</sup> day of AUGUST, 2022.



  
C.P. Mkeha

Judge

**01/08/2022**

**Court:** Execution of the decree in this case will be subject to compliance of the provisions of Rule 22 (2) of the High Court Commercial Court Rules. It is so ordered.

  
C.P. Mkeha

Judge

01/08/2022

**Court:** Default Judgment is pronounced on this 1<sup>st</sup> day of August, 2022 in the presence of Mr. David Elisha learned advocate for the Plaintiff.



  
C.P. Mkeha

Judge

01/08/2022