

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(COMMERCIAL DIVISION)

AT DAR ES SALAAM

COMMERCIAL CASE NO. 73 OF 2022

HUSSEIN ABDI HAJI PLAINTIFF

VERSUS

RAJNIKANT CHANDULAL KESHAVJI VORA 1ST DEFENDANT

MUZAFFER ESSAJEE 2ND DEFENDANT

RAD HOLDINGS LIMITED 3RD DEFENDANT

CONSENT JUDGMENT

Date of last order: 14/11/2022

Date of judgment: 14/11/2022

A.A. MBAGWA, J.

This judgment stems from a deed of settlement duly signed and filed by the parties in this court on 1st November, 2022.

The plaintiff, Hussein Abdi Haji instituted the present suit against the defendants namely, Rajnikant Chandulal Keshavji Vora, Muzaffer Essajee and Rad Holdings Limited herein referred to as the 1st, 2nd and 3rd defendants respectively.

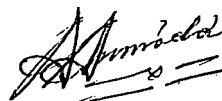


The plaintiff prays for judgment and decree against the defendants jointly and severally as follows;

- i) An order for payment of USD. 75,000 being compensation to the plaintiff following the assignment of agent implemented by the plaintiff thereto.
- ii) Payment of general damage resulted from the acts of the 1st, 2nd and 3rd defendants.
- iii) Costs of the suit
- iv) Interests on the total amount at the court rate from the date of the judgment to the date of full settlement hereof.
- v) Any other relief (s) that this Honourable Court shall deem fit to grant

Upon completion of pleadings and attendant preliminaries, the matter was set for hearing on 8th and 9th February, 2023 at 09:00hrs. However, on 1st day of November, 2022, parties filed in this court a deed of settlement wholly adjusting the suit. As such, this court summoned the parties to appear on 14th November, 2022 for necessary orders.

On the 14th day of November, 2022, Mr. Augustine Kusalika, learned advocate appeared for the plaintiff whereas Mr. Mhina Michael, learned counsel represented the defendants.

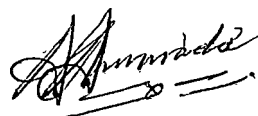


Mr. Kusalika informed the court that parties had mutually signed and filed the settlement deed stipulating the terms upon which they agreed. He thus prayed for the court to mark the matter as settled as per the terms and conditions stipulated in the settlement deed and the same form part of the consent judgment. The submission and prayer of the plaintiff's counsel was augmented by the defendants' counsel one Mr. Mhina Michael.

Order XXIII rule 3 of the Civil Procedure Code under which this settlement deed was filed 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 have had an occasion to go through the said deed of settlement filed in this court on 1st November, 2022 in terms of Order XXIII rule 3 of the Civil Procedure Code(supra) and rule 2(2) of the High Court (Commercial Division) Procedure Rules. I am satisfied that the same was on 25th October, 2022

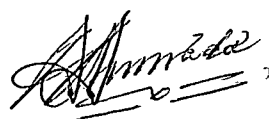


duly signed by all the parties namely, Hussein Abdi Haji (plaintiff), Rajnikant Chandulal Keshavji Vora (1st defendant), Muzaffer Essajee (2nd defendant) and Muzaffer Musajee Essajee (for the 3rd defendant Rad Holding Limited). Additionally, I have scanned the terms and conditions of the settlement deed and found that they are in consonance with the law.

In the case of **Jaffrey Indi. Sian Ltd vs M/s Beijing Construction Engineering Group Limited**, Commercial Case No 38 of 2021, this court remarked that parties' mutual settlement of cases is a route encouraged all over the world.

In the premises, the deed of settlement is hereby recorded and adopted to form part of the consent judgment. The matter is therefore marked settled with the following orders;

1. That, the 3rd defendant on her behalf and on behalf of the 1st and 2nd defendant has agreed to pay the plaintiff the sum of United States Dollars Ten Thousand (USD 10,000.00) only (herein after referred to as the decretal sum) which shall be paid in the following manner;
 - 1.1. The sum of United States Dollars five thousand (USD 5,000.00) only being the first instalment of the decretal sum, the same shall

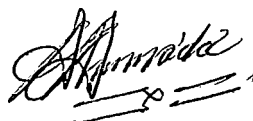


be paid to the plaintiff by the 1st defendant within two weeks from the date of filing and recording of this deed of settlement.

1.2. As to the further sum of United States Dollars of two thousand five hundred (USD 2,500.00) only being the second instalment of the decretal sum, the same shall be paid to the plaintiff by 3rd defendant within one month from the date of payment of the first installment.

1.3. As to the further sum of United States Dollars of two thousand five hundred (USD 2,500.00) only being the last instalment of the decretal sum, the same shall be paid to the plaintiff by 3rd defendant within one month from the date of payment of the second installment.

2. After the filing and recording of this deed of settlement, the plaintiff shall not file against the defendants jointly and severally any other suit in respect of the same subject matter of the suit or any matter similar or identical or related thereto and shall withdraw any other matter related thereto and the defendant jointly and severally undertake not to file against the plaintiff any other suit similar in nature or related to the suit.

A handwritten signature in black ink, appearing to read 'A. Almeida', with a horizontal line underneath.

3. This settlement deed once filed and recorded in court shall operate as a consent judgment and decree of the court binding upon the parties herein.
4. That, the usual default clause shall apply in the sense that should there be a default on payment of any instalment by 3rd defendant, the plaintiff shall be at liberty to execute the decree of the court in accordance with the law.

It is so ordered

Dated at Dar es Salaam this 14th day of November, 2022.



A.A. Mbagwa

JUDGE

14/11/2022