

**IN THE HIGH COURT OF UNITED REPUBLIC
OF THE TANZANIA
(MAIN REGISTRY)
AT DAR-ES-SALAAM**

MISC.COMMERCIAL APPLICATION NO.14 OF 2021

KILIMANJARO OIL COMPANY LTD.....APPLICANT

VERSUS

KCB BANK TANZANIA LIMITED1ST RESPONDENT

KCB KENYA LIMITED2ND RESPONDENT

Date of Last Order: 10/03/2022

Date of Ruling: 31/03/2022

RULING

NANGELA, J.:

This ruling is in respect of an application preferred by the Applicant under a certificate of urgency. The application was brought under Order XXXVII Rule 1(a), Order XLIII Rule 2 and Section 68 (c) and (e) of the Civil Procedure Code, Cap.33 R.E 2019.

At the heart of the application are the following prayers:

EX-PARTE:

1. That, the Hon. Court be pleased to make a finding that sufficient

grounds exist to dispense with the notice requirement.

2. That, the Honourable Court be pleased to make an interim order to restrain the Respondents or their agents, servants, assigns or whomsoever will be acting under their instructions or authority from selling any collaterals and from taking any step towards recovering **TZS 1,307,902,894.82** and **USD 3,487,206.32** and any interest and penalties therefrom, from the Applicant and from any collateral pledged as security, pending the hearing and determination inter-partes.

3. Costs be in the main application.

INTER-PARTES:

1. This Hon. Court be pleased to make an order of temporary injunction to restrain the Respondents or their agents, servants, assigns or whomsoever will be acting under their instructions or authority from selling any collaterals and from taking any step towards

recovering **TZS**
1,307,902,894.82 and **USD**
3,487,206.32 and any interest
and penalties therefrom, from the
Applicant and from any collateral
pledged as security, pending the
hearing and final determination
of Commercial Case No.7 of
2022.

2. Costs of this Application be provided for by the Respondents.
3. Any other orders as this Honourable Court deems just and fit to grant.

When the parties appeared before me on the 15th day of February 2022, Mr Frank Mwalongo and Juventus Katikiro, learned advocates, represented the Applicant while Mr. Elisa Abel Msuya, learned advocate appeared for the Respondents. Upon submissions by Mr Mwalongo, this Court granted the ex-parte prayer for interim order pending the final determination of this application. The main application was scheduled for hearing on the 16th March 2022.

On the material date, Mr. Mwalongo appeared for the Applicant while the learned counsels, Ms Regina Kiumba and Ndehurio Ndesamburo, appeared for the Respondents. Mr Mwalongo submitted to the Court that,

although the matter was scheduled for hearing, he has received a letter from the Respondents conceding to the application and prayers made therein. He therefore urged this Court to grant the application.

For her part, Ms Kiumba supported Mr Mwalongo's submission. However, he made a further addition that, should the Court so grant the application as prayed, it should nevertheless grant it with no orders as to costs. Mr Mwalongo did not object to the waiving of costs of this application.

In view of the above, this Court do hereby proceeds to grant the application and settles for the following orders:

1. THAT, the Respondents or their agents, servants, assigns or whomsoever acting under their instructions or authority are hereby restrained from selling any collaterals and from taking any step towards recovering **TZS 1,307,902,894.82** and **USD 3,487,206.32** and any interest and penalties therefrom, from the Applicant and from any collateral pledged as security, pending the hearing and final determination

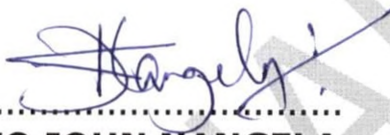
of Commercial Case No.7 of
2022.

2. The Application is granted with
no orders as to costs

It is so ordered.

DATED at DAR-ES-SALAAM ON THIS 31st DAY OF
MARCH, 2022




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DEO JOHN NANGELA
JUDGE

ORIGINAL