

**IN THE HIGH COURT OF TANZANIA
(COMMERCIAL DIVISION)**

AT DAR ES SALAAM

COMMERCIAL CASE NO. 11 OF 2022

CEMENT DISTRIBUTORS (E.A) LIMITED.....PLAINTIFF

VERSUS

SHIRIKA LA UZALISHAJI MALI LA JESHI

LA KUJENGA TAIFA.....1st DEFENDANT

THE ATTORNEY GENERAL.....2nd DEFENDANT

Date of Last Order: 27th April 2022

Date of Judgment : 29th April 2022

CONSENT JUDGMENT.

Z.A MARUMA J.

This is a consent judgment that arose from a deed of settlement entered successful by the parties in this suit and filed in Court on 20th April 2022. The settlement resulted from a suit filed by the plaintiff herein claimed for breach of an agreement in payment obligations by the defendants herein for the cement supplied to them by the plaintiff.

The plaintiff herein filed this suit praying for the judgment and the decree against the 1st and 2nd defendants jointly and severally as follows:

- (a) Declaration that the first defendant is in breach of the terms and conditions of the cement supply agreements.
- (b) An order for payment of TZS 103,293,000/= (Tanzanian Shillings One Hundred Three Thousand, Two Hundred Ninety-Three

Thousand being outstanding payments for the cement distributed and supplied to the first defendant under the agreement.

- (c) General damages for breach of contract as will be assessed by this court.
- (d) Interest on the decretal sum at the commercial rate of 21% from the date of breach to the date of final and full satisfaction.
- (e) Interest on the decretal sum at the courts rate of 12% from the date of judgement to the date of final and full satisfaction.
- (f) Costs of this suit.

On 27th April, 2022 the advocate for the plaintiff Mr. Phillip Irungu appeared before in the absence of the defendants. He informed this court that parties have managed to settle the matter amicably and filed the deed of settlement on 20th April, 2022. He prayed the same be admitted and formed a decree of this Court.

Upon a perusal of the deed of settlement, and being guided by order XXIII rule 3 of the Civil Procedure Code, CAP 33 R.E 2019 which provides that:-

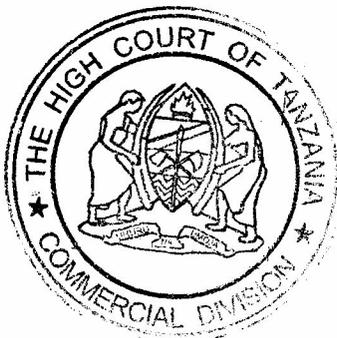
“Where it is proved to the satisfaction of the court that a suit has been adjusted wholly or in part by any lawful agreement or compromise, or where the defendant satisfies the plaintiff in respect of the whole or any part of the subject matter of the suit, the court shall order such agreement, compromise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

The stand also given by the Court of Appeal in the case of **MOTOR VESSEL SEPIDEH AND ANOTHER vs. YUSUPH MOHAMED YUSUPH AND TWO OTHERS** Civil Application No.237 Of 2013 (Unreported) the court held that "Where there is a lawful agreement or compromise, the court is bound to record settlement once it is arrived by the parties".

I am satisfied that the parties have wholly compromised their issues and settled their differences. Consequently, this suit is marked settled on the compromise of the parties evidenced by the terms agreed under the said deed of settlement. The same constitutes part and parcel of this consent judgment and decree of this court.

It is so ordered.

Dated at **Dar Es Salaam** this 29th April 2022.



A handwritten signature in black ink, appearing to be "Z.A. Maruma, J.".

Z.A.Maruma, J

29/04/2022