

**THE HIGH COURT OF TANZANIA  
(LAND DIVISION)  
AT DAR ES SALAAM**

**LAND CASE NO. 447 OF 2016**

**EDITH WAMBURA ..... PLAINTIFF**

**VERSUS**

**REGISTRATION INSOLVENCY AND TRUSTEESHIP**

**AGENCY (RITA)** (As a legal Personal Representative of  
James Konsel Wambura) .....

**1<sup>ST</sup> DEFENDANT**

**YONO AUCTIONES MALT..... 2<sup>ND</sup> DEFENDANT**

Date of Last Order: 12/12/2017

Date of Ruling: 21/02/2018

**RULING**

**Makuru, J.**

The 1<sup>st</sup> Defendant has filed a notice of preliminary objection on a point of law that:

“The Plaint is incompetent, misconceived and bad in law, hence is a nullity as it offends section 6 (2) of the Government Proceedings Act (Cap 5 R.E. 2002).”

When the matter was called on for hearing Mr. Joseph Singano learned counsel appeared for the Plaintiff while Mr. Mutabazi represented the 1<sup>st</sup> Defendant.

Arguing in support of the preliminary objection Mr. Mutabazi submitted that, the Registered Insolvency and Trusteeship Agency (RITA) is a Government Agency execute its duties under the Attorney General as per

section 8 (2) (a) of the Office of the Attorney General (Discharge of Duties) Act, No. 4 of 2005. It is therefore the learned counsel submission that before suing RITA, the Plaintiff was supposed to lodge a notice under section 6 (2) of the Government proceedings Act, Cap 5 R.E. 2002. According to Mr. Mutabazi, since the Plaintiff did not lodge the said notice the plaint is rendered incompetent, misconceived and bad in law.

In reply thereto Mr. Singano contended that, section 6 (2) does not cover RITA because RITA in the present case is appearing as a legal personal representative of Janel K. Wambura. Hence, the 90 days' notice is not required in circumstances.

In rejoinder, Mr. Mutabazi stated that there is no authority cited to the effect that RITA is not a Government Agency. The learned counsel reiterated to his submission in chief.

The issue to be determined by this court is whether RITA is a Government Agency executing its duties under the Attorney General. For the purpose of clarity I will reproduce the provisions of section 8 (2) (a) of the office of the Attorney General (Discharge of Duties) Act as follows:

“8(2) In addition to the functions stipulated under subsection (1) of this Act, the Attorney General shall perform the functions of:

- a) The Administrator General as stipulated under the Administrator General Ordinance, the Probate and Administration Ordinance and Trustees Incorporation Ordinance”


The above cited provisions of law are self-explanatory that RITA is a Government Agency because it is under the Administrator General executing its duties under the Attorney General. Thus, from the foregoing it was incumbent for the Plaintiff to serve the Defendant with a 90 days' notice as required by section 6 (2) of the Government Proceedings Act as follows:

Under the circumstances I find the preliminary objection to be meritorious and I hereby uphold it. The suit is accordingly struck out with costs.



**C.W. Makuru**  
**JUDGE**  
**21/02/2018**

**Court:** Ruling delivered in court this 21<sup>st</sup> day of February, 2018 in the presence of Mr. Joseph Singano learned counsel for the Plaintiff and Mr. Samwel Mutabazi learned State Attorney for the 1<sup>st</sup> Defendant and in the absence of the 2<sup>nd</sup> Defendant.



**C.W. Makuru**  
**JUDGE**  
**21/02/2018**