

IN THE HIGH COURT OF TANZANIA

(LAND DIVISION)

AT DAR ES SALAAM

LAND CASE NO. 94 OF 2017

SUED HAMIS CHEMCHAM & ANOTHERPLAINTIFF

VERSUS

FIRST NATIONAL BANK (T) LTDDEFENDANT

EX-PARTE RULING

18/9/2018 & 19/9/2018

A. MOHAMED, J

The defendant, First National Bank (T) Ltd, through its counsel, Mr. Kachenje, raised a notice of a preliminary objection on a point of law that the plaint is bad in law for failing to state the value of the subject matter of the suit.

On 18/9/2018 when the matter was called on for hearing of the objection, the plaintiff did not appear in Court. Consequently, following a prayer by Mr. Kachenje, this Court ordered the hearing to proceed ex parte against the plaintiff.

Mr. Kachenje curtly submitted that on 19/6/2017 he filed a notice of a preliminary objection on a point of law to the effect that the

plaintiff's pleadings are bad in law for not containing a statement of the subject matter of the suit for the purposes of this Court's jurisdiction and court fees contrary to the mandatory provisions of Order VII Rule (1) (i) of the Civil Procedure Code [Cap 33 RE 2002]. He therefore urged this Court to dismiss the suit with costs.

I will now consider the matter. Rule 1 (a) (i) of Order VII of the Civil Procedure Code (Cap 33 RE 2002) provides as follows:

“The plaint shall contain the following particulars-

(a)

(b)

(c)

(d)

(e)

(f)

(g)

(h)

(i) A statement of the value of the subject matter of the suit for the purposes of jurisdiction and of court fees, as far as the case admits.”

Since the provision is couched in mandatory terms, failure to state the value of the subject matter of the suit, as the case was in the instant case is fatal. I consequently sustain the preliminary objection and strike out the suit with costs.

It is so ordered.



A. MOHAMED

JUDGE

19/9/2018