

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

MISC. CIVIL APPLICATION NO. 303 OF 2019

(Arising from Execution No.69 of 2017)

**THE HON. ATTORNEY GENERAL1ST APPLICANT
TANZANIA NATIONAL ROAD AGENCY.....2ND APPLICANT**

VERSUS

**YUSUPH BAKARI MWAGU.....1ST RESPONDENT
JUMA RAMADHANI MWINYIMKUU.....2ND RESPONDENT
ARAFA S. RAMADHANI.....3RD RESPONDENT**

RULING

S.M. MAGHIMBI, J:

This is an application for an order to stay of a decree in Land Case No. 121/2011 issued in Application for Execution No. 69 of 2017. The order sought is to be issued pending the determination of the proper amount to be paid to the respondents (decree holders). The applicant further prayed for any other relief(s) that the court may deem fit and just to grant. The application is preferred under the provisions of Order XLIII Rule 2 and Order XXI Rule 24(1) of the Civil Procedure Code, Cap 33 R.E 2019 ("the CPC") and it is supported by the affidavit of Ms. Narindwa Sekimanga, learned State attorney from the office of Solicitor General who also represented the applicant. The respondents were represented by Mr. Elisaria J. Mosha, learned Advocate. On 30th September 2020 this court

ordered this application to be heard ex-parte because the respondents were not entering appearance to the court and no sufficient reasons were adduced for doing so.

In her submissions to support the application, Ms. Sekimanga initially prayed that the affidavit in support of the Chamber Summons be adopted to form part of her submissions. She then submitted that on the 28th April, 2016 the applicants (judgment debtors) lost in Land Case No.121 of 2011 which was instituted by the respondents (decree holders). That this court, ordered, amongst other things, that the applicants (judgment debtors) to;

- i) Reassess compensation taking into account the market value/price and follow all the procedures outlined by the Regulation 4 of the Land (Assessment of the Value of Land of Compensation) Regulations GN78 of 2001
- ii) After reassessment and correction of the mistakes the Applicants (judgment debtors) were ordered to consider what has already been paid to each respondents (judgment holders) initially and top up the difference.
- iii) Each respondent (judgment holder) was granted Tsh.5,000,000/= as the general damages.

Mr. Sekimanga submitted further that the applicant does not object the orders of the court and that communication has been made to the Property Market Consult Ltd who previously conducted Valuation and prepared a report of the properties of the respondents (judgment holders), so that they can correct the mistakes made as it was directed by this court in the judgment. That after several follow ups to the Property Market Consult Ltd,

they responded that they have already prepared the said report which has been forwarded to Chief Government Valuer for it to be approved.

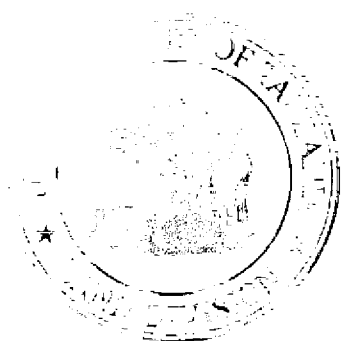
Ms. Sekimanga then submitted that if the Execution No. 69 of 2017 is implemented without corrections of the errors as directed by this court, it may lead to injustice of the parties. She finalised her submissions by praying that this application is granted.

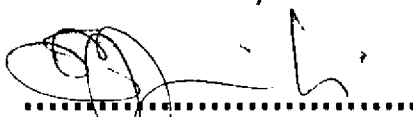
Having gone through the records of the application and the applicant's submission thereto, it is clear that good cause have been demonstrated by the applicant. The applicant does not deny nor avoid fulfilling her objection to execution of the decree, they are just seeking time so that the valuer can correct the mistakes. It is also on records that the respondent did not object to the application. It is for these reasons that I grant the applicant the orders sought. The execution of decree of this Court in Land Case No. 121 of 2011, vide Execution No. 69 of 2017 is hereby stayed pending the release/issuance of the valuation report from the chief Government Valuer.

I make no order as to costs.

It is so ordered.

Dated at Dar es Salaam this 14th day of December, 2020.




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S.M. MAGHIMBI,
JUDGE