

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

LAND CASE NO. 8 OF 2017

JOHN ARBOGAST SILAYO.....PLAINTIFF

VERSUS

**TANZANIA ELECTRIC SUPPLY
COMPANY LIMITED.....DEFENDANT**

Date of Order: 28.01.2021
Date of Judgment: 15.03.2021

JUDGMENT

V.L. MAKANI, J

The plaintiff in this suit JOHN ARBOGAST SILAYO is praying for orders against the defendant Tanzania Electric Company Limited (**TANESCO**) as follows:

- 1. The defendant be ordered to agree with the plaintiff on his demarcation of land in view of the land clearance from the constructed electricity power line.*
- 2. The defendant be ordered to clear and collect the cut down by the defendant.*
- 3. The defendant be ordered to pay the plaintiff TZS 250,000,000/= (Two Hundred and Fifty Million) being compensation for the following.*
- 4. Cut trees - 60,000,000/=*
- 5. The trees which have remained but are located very close to the electric power line 100,000,000/= as they shall be eventually cut.*

6. The piece of land through where the line has passed – 90,000,000/=.

7. Costs of the suit to be provided for.

8. Any other relief(s) this honourable court may deem just to grant.

According to the plaint, the plaintiff alleged to be the owner of the tree farm at Mbopo area located in Mabwepande Ward within Kinondoni District (the **suit land**). It is alleged by the plaintiff in the plaint that the defendant illegally constructed electric power line through the suit land causing massive destruction of teak trees. The plaintiff further alleges in the plaint that the value of the suit land is TZS 100,000,000/= being the purchase price of the suit land from one Athanas Stephen Kauzeni. The plaintiff further alleged that there was no notice from the defendant in respect of laying the power lines and as a result 10 trees of teak were destroyed. Despite several demands for compensation the defendant has remained silent hence the suit before this court by the plaintiff.

The plaintiff was represented by Mr. Leonce Rwebangira Kente, Advocate and the defendant was represented by Mr. Florence A.

Kahatano, Advocate. The plaintiff presented two witnesses, the plaintiff as **PW1** and James Louis Nikomedi Kanje as **PW2**. The defendant presented three witnesses namely, Martin Hillary Kapela (**DW1**), Mohamed Ally Bushiri (**DW2**) and Emmanuel Petro Oyoga (**DW3**).

The following issues were framed for determination as follows:

- a) Whether the defendant invaded the plaintiff's farm located at Mbopo Area Mabwepande Ward, Kinondoni District.*
- b) Whether the plaintiff's claim is justifiable.*
- c) Whether the defendant is liable to the plaintiff's claim.*
- d) To what reliefs are the parties entitled?*

The plaintiff (**PW1**) testified that he is the owner of the farm at the suit land since October, 2012 having purchased it from one, Prof. Athanas Stephen Kauzeni by virtue of Sale Agreement (**Exhibit P1**). He said he is seeking for compensation as the suit land was invaded by the defendant company and his teak trees were cut down and damaged. He said a total of 20 trees were cut down and others were in danger of being cut down and these trees were intended to generate income. He said he was informed that the defendant had a project within the area which necessitated the cutting down of the

trees. He presented photographs (**Exhibit P2** collectively) showing the damage of the trees that were cut down. The plaintiff said he communicated with the defendant's Regional Manager at Kinondoni Zone about the damage who promised to visit the site, but he did not do so. He said he later wrote to the Manager vide emails (**Exhibit P3** collectively) informing him that nothing has been done despite the notification of the damage and that further action would be taken if there would be no response from them. He said since there was no response from the defendant a demand notice from his lawyers was sent to the defendant (**Exhibit P4**). He emphasized that no one has ever sought permission from him about the need for electricity power lines to pass through his farm and compensation thereto. He said he was not consulted by the street local government (*Serikali ya Mitaa*) or the defendant. He said when he went to inspect, 6 trees were already cut and while the case was going on a further 4 trees were cut. He said the remaining trees will not grow as they will always be pruned because of the power lines and this is a loss to him.

The plaintiff explained that teak trees are protected and as they grow tall their value increases. He said according to International Markets the value of one square meter is USD 4 to 6 dollars and by cubic

meters it is USD 40 dollars. He said he cannot bar development in the community but rather he is entitled to some compensation for the destruction of the farm that was caused by the defendant and that is what he was praying for.

On cross-examination the plaintiff said he was going to loose because he intended to build a petrol station at his farm. He said he arrived at the figure of TZS 60,000,000/= as compensation on estimation as the trees were yet to mature basing on the rates from the website. On re-examination he said he was expecting to get TZS 60,000,000/= from the trees that were cut which is 60 cubic meters (according to the websites). TZS 100,000,000/= is from trees that are prone to be destroyed and 90,000,000/= is the value of land prone to be lost.

The second witness for the plaintiff, **PW2**, said he was in court to give evidence on the destruction of the teak trees in the suit land owned by the plaintiff. He said he was supervisor of the farm since 2012 and he has never received any information of the defendant's project. He said he saw 4 complete trees that were cut down and 10 were left hanging. He said the teak trees are very valuable as they make furniture and floors. He said he has wood experience as he had

worked for a Wood Exporting Company as production/marketing manager from 2008 to 2010. The company he was working with used to export teak trees to UK, Spain and America. He said in 2010 the average price was TZS 1,000,000/= per 1 cubic meter or per ton and a mature teak tree can produce 3 to 4 cubic meters. He said he was not aware of any electricity project in the area of the suit land, but he saw electricity poles in the suit land and the teak trees and other crops were destroyed.

On the defence side, **DW1** was the first witness and he said he was resident of Mbopo Street, Mwabwepande Ward in Kinondoni District. He said in 2013 there was a meeting of all residents to discuss how to get electricity in the street and all residents agreed to apply to the defendant company to get the services vide a letter (**Exhibit D1**). He said on 05/10/2013 there was another emergency meeting (**Exhibit D2 – Minutes of the meeting**), though the Director of the defendant could not come for the meeting, but he principally said the request was granted but the defendant company did not have compensation for the residents where the electricity poles would pass. **DW1** said the director also requested the residents to assist the defendant company in digging holes for the poles. He said the residents agreed

that there was no need for compensation since this was development for their street which also included other activities such as water, culverts and drainages. He said a committee of 5 people was created to follow-up the exercise and he was the chairman of the said committee and a contribution of TZS 130,000/= was made during the meeting, in that, each resident was supposed to contribute TZS 10,000/= for digging holes and erecting the electricity poles. **DW1** continued saying that on 18/02/2017 another meeting was called, and they were told that the defendant company could not continue with the project because one resident, the plaintiff herein, had sued the defendant company for compensation of his teak trees that were cut down during the exercise of erecting electricity poles. He said residents were not happy because they had all made a decision to get electricity for the residents in the street and further that they had come to discover that the land that was claimed to be owned by the plaintiff actually belonged to Prof. Athanas Stephen Kauzeni who attended the meetings which made the decisions about the electricity project; and he also contributed to the development of the said project. This was according to the Minutes of the meeting of 18/02/2017 (**Exhibit D3**). He said they had to ask the defendant company to continue with the exercise vide the letter dated

05/06/2017 (**Exhibit D4**). He said the defendant company understood their plea and continued with the exercise. He insisted that the defendant company never invaded the suit land because the plaintiff did not own the land. He said the suit land belonged to the late Prof. Athanas Stephen Kauzeni and further that if need be it were the residents and not the defendant company that cut down the trees in the suit land. He prayed for the suit to be dismissed as it had no merit.

On cross-examination **DW1** said late Prof. Athanas Stephen Kauzeni died in 2019 and he was not aware that he sold the land to the plaintiff. He said if there was such a sale he would have known since he was a neighbour; and further, a new resident has to be listed in the office of *Serikali ya Mtaa* which was not the case with the plaintiff.

DW2 was the Chairman of *Serikali ya Mtaa*, Mbopo and has been on the said post since 2019. His evidence was almost similar to that of DW1 but he emphasized that the plaintiff is not among the residents of Mbopo Street as his name does not appear in the register of residents of Mbopo Street. He said anyone who sells or buys land in the area has to report to their office for verification and this was not

the case with the plaintiff. He said the office knows that the suit land belongs to the late Prof. Athanas Stephen Kauzeni. He said the employees of the defendant company did not cut trees, but the residents of Mbopo street were the ones cutting the trees when they were assisting the defendant company in the electricity project. He said the plaintiff is not resident of their street and he has never sat in any of their meetings to make decisions.

On cross-examination **DW2** said the late Prof. Athanas Stephen Kauzeni gave permission for the project to proceed because he was in the meeting that made the said decision. He insisted that the land belonged to the late Prof. Athanas Stephen Kauzeni and has never been sold as the office of *Serikali ya Mtaa* was not involved and is not aware. He prayed for the suit to be dismissed.

DW3 was Emmanuel Petro Oyoga, a foreman of the defendant company. He said he was instructed by his office to supervise the electricity project in Mbopo Street. He said they reported at the office of *Serikali ya Mtaa* and thereafter made assessment as to were to erect the electricity poles. He said during the assessment they were with the Chairman and the residents were the ones who cleared the

way for the electricity lines which included cutting trees and digging holes for the poles. He said in the case of Mbopo electricity project the defendant company had no funds, but residents were willing to assist in terms of clearance of the electricity way and they waived compensation in case of any damage. He emphasized that they only marked the way the electricity lines would pass and erected the poles; but the residents were the ones who cleared the way and dug holes.

The final submissions on behalf of the plaintiff were by Mr. Kente. He submitted that the evidence proves that the plaintiff's trees were cut and pruned arbitrarily, and this makes the defendant liable to the plaintiff in respect of damages. He said the cutting of the trees without compensating the plaintiff was in violation of Article 24(2) of the Constitution of the United Republic of Tanzania. He submitted that if the teak trees were not prematurely cut the plaintiff would have eventually earned TZS 60,000,000/= from the teak trees and TZS 100,000,000/= from exportation of the pruned teak trees; and he would not have been deprived ownership of the land within the limitation of security radius from the line centre. He further submitted that the evidence of the plaintiff was corroborated by that of **PW2**

that they were not informed about the plan to route the electricity power lines through the suit land.

On whether the defendant caused destruction to the plaintiff's land, Mr. Kente relied on the sale agreement of the farm between the plaintiff and Mr. Athanas Stephen Kauzeni (**Exhibit P1**). He prayed for the court to disregard the testimony of **DW1** who said the suit land did not belong to the plaintiff but the late Prof. Athanas Stephen Kauzeni. In any case, he said ownership of the land was not an issue for determination by the court. He said the testimony that the trees that were cut were within the road reserve were untrue because **DW3** made it clear owners of properties that are damaged in the course of implementation of similar projects have to be compensated and in this case the plaintiff did not receive any compensation because of lack of funds. He said since the defendant did not prove that the trees were cut from the suit land then defendant caused damage to the plaintiff's trees illegally and trespassed into the plaintiff's land. Mr. Kente went on saying that there was no issue on ownership of the suit land belonging to the plaintiff because there was no dispute on ownership of the land between the plaintiff and his neighbours or with the previous owner of the suit land. He argued the court not to

consider the issue on ownership of the land as testified by **DW1** and **DW2**.

On the issue whether the plaintiff's claims against the defendant company are justified, Mr. Kente said Prof. Athanas Stephen Kauzeni attended the meetings of the residents of Mbopo street on 14/03/2013 and 15/10/2013 but the defendant company did not consult him concerning the electricity project which was being planned in the area after the route survey indicating that the electricity line would pass through the suit land. He said the inaction by the defendant company is construed as infringement of the plaintiff's right under Article 24(2) of the Constitution of the United Republic of Tanzania which states that it shall be unlawful for any person to be deprived of his property for purposes of nationalization and other purposes without the authority which makes provision for fair and adequate compensation. He said the defendant and Mbopo local government were acting ultra vires their powers to implement the project and without agreeing with the plaintiff on the compensation on the damages resulting from the project. On the right for compensation Mr. Kente relied on the case of **Barabera Ujamaa Village vs. Abubakari [1983] TLR 219 (HC)** and on the issue of

notice he relied on the case of **Tito Saturo & 7 Others vs. Matiya Seneya & Others, Civil Case No. 27 of 1985**. He said the right to own land is enshrined in the Constitution and the damage by the defendant on the plaintiff's land was made in violation of the rights of the plaintiff. He said it was the duty of the defendant company and not Mbopo local government to notify and agree with the plaintiff of the foreseen damages to his property as a result of the survey report as stated by **DW3**.

Mr. Kente went on submitting that the plaintiff was not against the project, but he was chasing for fair compensation between him and the defendant company and not otherwise. He concluded that since it was proved that the plaintiff was not notified by the defendant of the project which caused damage to his property which he was not compensated, then he is entitled to the claimed reliefs and that the plaintiff and **PW2** in their testimony also proved the damages based on Regulation 3 of the Land (Assessment of the Value of Land for Compensation) Regulations, 2001. He also prayed to be awarded costs of the suit.

Addressing the first issue, whether the defendant invaded the plaintiff's farm, Mr. Kahatano submitted that the defendant company did not do so rather the defendant company erected electricity poles and constructed electricity transmission lines upon the request and consent from the residents of Mbopo street who initiated the project. He said the residents agreed to proceed with the project even after the defendant company declared that she was not in a position to execute the project for lack of funds for compensation to people whose land would be required to pave way for construction works. Mr. Kahatano further submitted that the defendant did not cut the trees as alleged by the plaintiff, rather the trees were cut by the residents of Mbopo street who were assisting the defendant company in the construction of the electricity transmission lines.

As to ownership of the suit land Mr. Kahatano said, **DW2** the chairman of *Serikali ya Mitaa* Mbopo testified that their office keeps a register of residents and they do not have particulars of the plaintiff that he owns the suit land but instead the land was in the ownership of Prof. Athanas Stephen Kauzeni. He said according to **DW2** the late Prof. Athanas Stephen Kauzeni consented that electric poles and transmission lines could be constructed through the suit land. He

further relied on the evidence of **DW2** that anyone purchasing land in their area had to report to the office of *Serikali ya Mitaa*. He agreed with **DW2** that the plaintiff ought to have sued *Serikali ya Mitaa*, Mbopo (Local government) as they allowed the defendant company to proceed with the construction of the electricity lines. Mr. Kahatano further submitted that the defendant company had the permission of the residents of Mbopo street that enabled her to enter and erect the electricity poles in the suit land and they relied on the consent of the late Prof. Prof. Athanas Stephen Kauzeni as the local government was not aware that there was transfer of ownership of the suit land to the plaintiff.

On the second issue whether the plaintiff's claims are justifiable, Mr. Kahatano stated that the claims by the plaintiff are not true. He said there is no evidence to support that the defendant cut the alleged trees. He said the only evidence tendered were photographs which showed that trees have been cut down, but they did not show that they were cut by the defendant's employees. He further submitted that the number of trees differ from one witness to the other. While the plaintiff stated that the defendant cut down six trees, **PW2** said he cut down four trees and the photos show only two trees. Mr.

Kahatano also pointed out that **Exhibit P1** reflects that the purchase price was TZS 7,000,000/= but in the plaint the value of the land is reflected as TZS 100,000,000/= while there was no improvement made. He also said the plaintiff failed to justify the costs of the trees that he alleged were cut. He said the plaintiff alleged the six trees to cost TZS 60,000,000/=, that is, TZS 10,000,000/= for each tree. But he did not show how he arrived at the said amount. He further said while the market value of the teak trees was said by the plaintiff to range from four to six USD per square meter or 450 to 600 cubic meter, **PW2** stated that the market value was TZS 1,000,000/= per ton or square meter. Learned Counsel further stated that the value of the piece of land has been overstated to TZS 90,000,000/= and no valuation report was given. Mr. Kahatano said the plaintiff failed to prove his case by virtue of section 110,112 and 115 of the Evidence Act CAP 6 RE 2019.

As for the issue whether the defendant is liable to the plaintiff's claims, Mr. Kahatano submitted that the defendant is not liable as she executed the project upon assurance and the consent and collaboration of the residents of Mbopo street and their local government.

As for the reliefs prayed for, Mr. Kahatano submitted that the plaintiff did not prove how he arrived at the claims of damages totalling to TZS 250,000,000/=. He said the claims raised are special damages and thus they ought to be strictly proved as established in the cases of **Peter Joseph Kilibika & CRDB Bank Plc vs. Patrick Peter Mlingi, Civil Appeal No. 37 of 2009 (CAT)**(unreported), **Zuberi Agustino vs. Ancet Mugabe [1992] TLR 137 (CA)** and **Matiku Bwana vs, Matiku Kwikubwya & Another [1983] TLR 362 (HC)** and **Bampras Start Service Station Limited vs. Mrs. Fathma Mwale [2000] TLR 390.**

Regarding the other reliefs Mr. Kahatano said the plaintiff has failed completely to prove and justify the claims, which in his view are an afterthought, aimed to illicit enrichment from the defendant company. He prayed for the dismissal of the suit with costs.

It is a fundamental principal of law under the Law of Evidence Act that whoever desires a court to give judgment in his/her favour; he/she must prove that those facts exist.

Section 110 (1) (2) and 112 of the Law of Evidence Act reads as follows:

"Section 110(1) Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist.

Section 110(2) When a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person.

Section 112 The burden of proof as to any particular act lies on that person who wishes the court to believe in its existence unless it is provided by law that the proof of that fact shall lie on any other person."

The above provisions place the burden of proof to whoever desires the court to give judgment as to any legal right or liability dependent on existence of facts which he/she ascertain. In the case of **Abdul Karim Haji vs. Raymond Nchimbi Alois & Another, Civil Appeal No. 99 of 2004** (unreported) the Court of Appeal held that:

".....it is an elementary principle that he who alleges is the one responsible to prove his allegations"

Also, in the case of **Anthony M. Masanga vs. Penina (Mama Mgesi) & Lucia (Mama Anna), Civil Appeal No. 118 of 2014 (CAT)** (unreported) where it was further held that the party with legal

burden also bears the evidential burden on the balance of probabilities.

In the present case therefore, the burden of proof at the required standard of balance of probabilities is left to the plaintiff being the one who alleged that the defendant invaded his farm and that he is entitled to the damages that he has claimed. What this court is to decide upon is whether the burden of proof has been sufficiently discharged by the plaintiff.

The first issue for consideration is whether the defendant invaded the plaintiff's farm located at Mbopo Area Mabwepande Ward, Kinondoni District. According to the evidence by the plaintiff he is the owner of the suit land and that the defendant entered the suit land and cut trees without permission and notice. The plaintiff said he bought the suit land from one Prof. Athanas Stephen Kauzeni and supporting proof thereof was a Sale Agreement (**Exhibit P1**). On the other side **DW1** and **DW2** testified that the suit land does not belong to the plaintiff and he cannot claim anything while he does not own the said land.

I have gone through the Sale Agreement **Exhibit P1**, indeed, the said exhibit reflects that Athanas Stephen Kauzeni sold a farm to the plaintiff worth TZS 7,000,000/=. However, the said agreement does not state the size of the farm, neither does it state specifically where the suit land is located in Mbopo street, and to make matters worse it does not state the neighbours bordering the said suit land. There is only a signature of the witness to the seller but there is no name. And the witness for the plaintiff, who was the buyer, is Abdallah Abasi who has also signed as the Cell member of Mbopo (*Mjumbe was Shina la Mbopo*) who is said to have confirmed the alleged Sale Agreement.

From the evidence given, it is apparent that the suit land is not registered hence village land under the Village Land Act CAP 114 RE 2019. According to section 12(1) (c) of the said Act, land may be allocated to an individual or community by the Village Council. A member of the Cell is not among the authorities mentioned in the said Act as having the power to allocate village land. In any case, if the Cell member did this unknowingly, then the said transaction would have been reported to the village office as was stated by **DW2**, for information and registration. And, if the authorities knew about this the neighbours including **DW1** would have known of his new

neighbour as he would have been involved when the seller was showing the boundaries. At any rate, if the sale was genuinely conducted then the name of the seller's witness would have been duly reflected. Further, the seller's name Prof. Athanas Stephen Kauzeni would not have appeared in the list of residents attached to the letter to the Director General of the defendant dated 14/03/2013 (**Exhibit D1**). Prof. Athanas Stephen Kauzeni's name would not have been reflected in the list of residents who met on 14/03/2013 as the sale is alleged to have been made on 13/10/2012 long before the meeting was convened. This means the suit land cannot be in the ownership of the plaintiff. In essence therefore, the claim that the defendant company invaded the suit land cannot stand because the purchase of the suit land by the plaintiff is questionable and he has miserably failed to justify before this court that there was a lawful sale transaction and that he is the lawful owner of the suit land.

In his submissions Mr. Kente said this matter was not on ownership of the suit land but rather on the compensation entitled to the plaintiff. But with due respect, the issue of ownership cannot be escaped as one cannot determine invasion to a person's land without establishing ownership of that land. As the suit land does not belong

to the plaintiff, it is apparent that the defendant company did not invade his suit land as claimed, and so the issue of compensation as argued by Mr. Kente cannot stand. The first issue is therefore answered in the negative.

The second and third issues, whether the plaintiff's claim is justifiable and whether the defendant is liable to the plaintiff's claim shall be considered together as they are straight forward. Having established that the suit land does not belong to the plaintiff it is apparent that the plaintiff's claims are not justifiable because as already established the plaintiff is not the owner of the suit land and so the defendant was lawfully acting on the request of the residents of Mbopo street as duly testified by **DW1, DW2** and **DW3**. Since the plaintiff was not owner of the suit land; and not resident of Mbopo street; and further he did not participate in any decision-making, then his claims are not justified.

The witnesses **DW1, DW2** and **DW3** clearly narrated the origin and coming into effect of the electricity project in Mbopo street. **DW1** stated how they requested the defendant company to assist in getting

the electricity services in their area **Exhibit D1**. They further disclosed how, as residents, they agreed that no resident would be compensated and further that they would assist the defendant company in the ancillary services such as digging holes for erecting the electricity poles, clearing the way etc (**Exhibit D2**). The witnesses also showed how the residents confirmed among themselves and to the director of the defendant company that the plaintiff is not among the residents and that his claims are not valid and for the defendant company to continue with the project (**Exhibits D3 and D4**). The plaintiff in his evidence said he never received notice from the defendant company about the project however, it is clear from the defendant's evidence which was not shaken, that no notice was required because, firstly it was the residents themselves who had requested for and they were aware of the project. Secondly, even if notice was to be given, the plaintiff was not eligible as he was not, as established hereinabove, resident of Mbopo street. In view thereof, the plaintiff's claims are devoid of merit, and the defendant is not liable for the said claims or at all. In totality, the plaintiff has failed to prove his case to the standards required in civil cases as a result the evidence of the defendant company carries more weight and the balance leans in the favour of

the defendant company. (see the case of **Hemed Said vs. Mohamed Mbilu [1984] TLR 113**).

The last issue is to what reliefs are parties entitled to. As it has been established that the suit land does not belong to the plaintiff then the claim for compensation of teak trees that were cut down (TZS 60,000,000/=), trees which would be eventually cut when the electric lines are erected (TZS 100,000,000/=) and the piece of land that the electric lines would pass (TZS 90,000,000/=) would not stand.

However, and without prejudice to the above, the said claims fall within the realm of special damages and therefore the plaintiff still had a duty to specifically prove them. It is the law that where there is a claim of special damages the same must not only be specifically pleaded, but also strictly proved. (See **Zuberi Augustino vs. Anicet Mugabe [1992] TLR 137**).

In the present case the plaintiff could not prove how he arrived at the numbers of the value of teak trees and the suit land. For instance, he said the value of the teak trees was according to Open and International Markets prices, however the sources of the prices were

not presented in court but rather the court was referred to unknown website. Further, both the plaintiff and **PW2** did not have any documentation to substantiate the prices that were presented, and to make matters worse the prices differed. While the plaintiff stated that the market value of teak trees by then ranged from USD 4 to 6 per square meters or 450 to 600 cubic meters, **PW2** stated that the market value of teak trees was TZS 1,000,000/= per ton or square meter. The plaintiff also failed to state how he arrived at TZS 90,000,000/= as the value of the land in which the electricity lines passed as there was no valuation report neither was there a hint of the acreage of the suit land and how much the electricity lines ate up the alleged land owned by the plaintiff.

The plaintiff also tendered photographs (**Exhibit P2** collectively) to show the damage that was caused by the defendant company. However, the photographs are without assistance as firstly, they do prove that indeed they are from the alleged suit land, and secondly, there is no photograph showing any official of the defendant company at work. The court is not even sure if the fallen and cut trees on the photographs are teak trees. So, with these uncertainties it is apparent that the plaintiff failed to validate with certainty that there was actual

damage and how he arrived at the amount so claimed as compensation.

In the end result and for the reasons I have strived to address, I hold that the plaintiff has failed to prove his case and is not entitled to any of the reliefs prayed in the plaint. Consequently, the suit is hereby dismissed with costs.

It is so ordered.



V.L. Makani
V.L. MAKANI
JUDGE
15/03/2021