

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(LAND DIVISION)**

AT DAR ES SALAAM

MISC. LAND APPLICATION NO. 567 OF 2021

**CAR TRACK DISTRIBUTORS LIMITED APPLICANT
VERSUS**

**MKB SECURITY COMPANY LTD1ST RESPONDENT
M/S GSM2ND RESPONDENT**

RULING

Date of last: 8/11/2021

Date of Ruling: 26/11/2021

T.N. Mwenegoha, J:

The applicant has moved this Court under S. 95 of CPC praying for status quo. Upon hearing of the application the respondents where of the view that this Court has been moved wrongly by S. 95 of CPC instead of being moved properly under Order XXVII Rule 1(a) together with s. 68 (e) of CPC Cap. 33.

To this the applicant contested vehemently accusing the respondent to be misguided as Order XXVII is for injunction while they have prayed for status quo ante and the proper provision is S. 95 of CPC.

I disagree with both applicant and respondent. It is true that the applicant has not prayed for temporary injunction hence cannot move this Court through the provisions suggested by the respondent.

However, it is also not true that the applicant has prayed to this Court for status quo ante. What the pleadings of the applicant ask this Court to do is issue status quo. It is trite law that parties are bound by their own pleadings. In the case of Astepro Investment Co. Ltd vs. Joving Invest, Civil Appeal No. 8 of 2015, CAT unreported Court of Appeal expressed that "Parties are bound by their own pleadings ..."

The applicant in chamber summons stated his case to be for maintenance of status quo. It was only after appearing before this Court that he stated his case differently. Not only taking the other party by surprise but also leaving the Court in limbo, with two different prayers. Even more so what the applicant prayed for in his chamber summons is not what he submitted during the hearing of this application, and likewise what he submitted for in the hearing is not what he pleaded in chamber summons.

As the law is clear that the Court should be guided by the pleadings of the parties and as it is the applicant has not submitted to the Court his case; hence this application is incompetent and is hereby struck out with costs.

Dated **at** Dar es salaam this **26th** day of **November, 2021.**




T.N. Mwenegoha,
JUDGE,
26/11/2021.