

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

AT DAR ES SALAAM

MISC. LAND CASE APPLICATION NO. 47 OF 2021

(Arising from Application No. 565/2020, Land Application No. 330 of 2019 and Land Appeal No. 2017 of 2020)

ZARINA MOHAMED SADIK.....APPLICANT

VERSUS

ZAINULA ABEDIN SATYA.....1ST RESPONDENT/DECREE HOLDER

HAJI IQBAL BITURI.....2ND RESPONDENT/DECREE HOLDER

RULING

OPIYO, J.

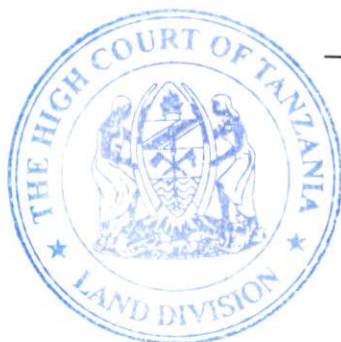
The applicant seeks to stay the execution of the decree issued in Land Application No. 330 of 2019, by the District Land and Housing Tribunal for Ilala. The application was brought under Order XXXIX Rule 5 (1), (3) and (4) of the Civil Procedure Code, Cap 33 R.E 2019 and supported by the Affidavit of the applicant, Zarina Mohamed Sadick.

Through oral submissions, the applicant who appeared in person contended that her application should be allowed and the execution be stayed pending the determination of her appeal against the decision of the District Land and Housing Tribunal for Ilala which is pending before

this court, Land Appeal No. 207/2020. The reason for which prompted her to file this application is the fact that the respondents have threatened to demolish her property.

In reply through Advocate Msemwa, the respondents the application arguing that the sought by the applicant in the application at hand are not maintainable. The first point of objection is that, the same was brought under a wrong enabling provision. Second is that, the applicant had tried to stay the said execution in the District Tribunal unsuccessfully then she has rushed into this court seeking for the same thing which she was denied at the tribunal.

The matter was schedule for ruling today, however, as both the application and the Land Appeal No 207/2020 upon which it depended were running concurrently before this court, the appeal was finally determined before this application. The prayer for stay of execution in this application subjected to pendency of the appeal in question. Therefore, after the determination of the appeal, fortitude of this application becomes redundant. In the circumstances, the application is struct for being overtaken by events.





M.P. OPIYO,

JUDGE

4/6/2021