

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

MISC LAND APPLICATION NO. 480 OF 2021

BETH NZOKA.....APPLICANT

VERSUS

ATTORNEY GENERAL.....1ST RESPONDENT

REGISTRAR OF TITLES.....2ND RESPONDENT

JOSEPH BULALI (Also known as

JOSEPH BULALI CHAMBALUYA).....3RD RESPONDENT

ISSA ESMAIL CHOKA MANAMBI.....4TH RESPONDENT

RULING

Date of Last Order: 01.12.2021

Date of Ruling: 16.12.2021

V.L. MAKANI, J.

The applicant BETH NZOKA is praying for the following orders:

- 1. That this honourable court may be pleased to summon the caveator that is the 4th respondent to attend and to show cause why the caveat he registered on **23/05/2016** over five (5) years should not be removed.*
- 2. That this honourable court may be pleased to order the Registrar of Titles to remove the caveat in case the caveator fails to appear and or fails to show cause why the caveat should not be removed.*
- 3. Any other order the court may deem fit and just to grant.*

The application is made under section 78(4) of the Land Registration Act, CAP 334 RE 2019 and section 68 (c) and 95 of the Civil Procedure Code CAP 33 RE 2019. The application is supported by the affidavit of the applicant herein.

The court summoned the caveator who is also the 4th respondent, but he did not enter appearance even when he was summoned by way of publication in Mwananchi Newspaper of 29/10/2021. So, the matter proceeded ex-parte against him.

Mr. Kasaizi, Advocate for the applicant submitted that the application is to show cause why the caveat in respect of land under **Certificate of Title No. 100061, Plot No. 234 Block 43 Kijitonyama, Dar es Salaam** (the **suit land**) should not be removed. Mr. Kasaizi further submitted that since the caveator has not entered appearance neither has he filed a counter-affidavit, the court ought to order the Registrar of Titles to remove the caveat registered on 23/05/2016 in respect of the suit land. Mr. Kasaizi went on saying that the interest of the applicant in the suit land is that, the 3rd respondent (Joseph Buhali or Joseph Bulali Chambaluya) is her husband and there is a decree of Kinondoni District Land Tribunal at Mwananyamala in Land

Application No. 77 of 2016 for sale of the suit land and divide the proceeds. The judgment and decree of the Tribunal was delivered on 09/05/2019.

Mr. Mahushi, State Attorney representing the 1st and the 2nd respondent said that he did not have any objection to the removal of the caveat registered by the 4th respondent. He said the law is clear that removal of the caveat can be by the caveator or any interested party by the order of the court.

I have listened to the parties herein, the learned State Attorney on behalf of the 1st and 2nd respondents (the Attorney General and Registrar of Titles) has no objection to the removal of the caveat. It is apparent that the caveat was filed 23/05/2016 and this is a long time. Since the caveator, the 4th respondent herein, has not entered appearance it means he has waived his right to oppose this application. The interest of the applicant is clearly reflected in paragraph 6 of the affidavit of the applicant and the attached judgement of the Tribunal (**Annexure GA1**).

In the result, the application is granted. The Registrar of Titles (the 2nd respondent) is ordered to remove the caveat registered by **ISSA ESMAIL CHOKA MANAMBI** (the 4th respondent) in respect of **Plot No. 234 Block 43 Kijitonyama, Dar es Salaam** under **Certificate of Title No. 100061**. There shall be no order as to costs.

It is so ordered.


V.L. MAKANI
JUDGE
16/12/2021

