

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

**MISC. LAND APPLICATION NO. 395 OF 2022**

**ABEID S. ABEDI .....1<sup>ST</sup> APPLICANT**

**JOSEPH OSMUND MBILINYI .....2<sup>ND</sup> APPLICANT**

**VERSUS**

**REGISTRAR OF TITLES .....1<sup>ST</sup> RESPONDENT**

**COMMISSION FOR LANDS .....2<sup>ND</sup> RESPONDENT**

**THE HON. ATTORNEY GENERAL .....3<sup>RD</sup> RESPONDENT**

**R U L I N G**

*Date of last Order:*

*Date of Ruling:31/08/2022*

**T. N. MWENEGOHA, J.**

The Applicant moved this Court under Section 2 (3) of Judicate and Application of Laws Act, Cap. 358, R. E. 2019 among other orders to issue a Temporal for injunction restraining the respondent and/or their agents from making the intended rectification of a Certificate of Title No. 13210 in respect of piece of Land comprised in Plot No. 33, Block 16 at Kibada Area, Temeke Municipality, Dar es Salaam registered in the name(s) one Joseph Osmund Mbilinyi (The 2<sup>nd</sup> applicant) and who sold it to the 1<sup>st</sup> applicant who is the

bonafide purchaser possessor of the said landed property pending of the expiry of 90 days notice issued to the respondent.

The Application is made in support of the affidavit of the applicants and the same was countered by the Counter Affidavit of Adelfida Camillius Lekule, Land Officer of the 2<sup>nd</sup> respondent.

The Application was disposed of by way of Written Submission whereby Ahmed Abdallah Mwita, Advocate represented the Applicant while the respondent was represented by Salehe Manoro, State Attorney.

In his submission Mr. Mwita, informed the Court that the disputed land has been allocated to the 2<sup>nd</sup> applicant and is registered in his name. Then the 2<sup>nd</sup> applicant sold it to the 1<sup>st</sup> applicant. Now the 2<sup>nd</sup> applicant was issued with rectification notice whereby his name will be removed. He was given 30 days notice, and now he is praying is for maintenance of *status quo* pending the expiry of 90 days notice he issued to the Government on his intention to sue the Government.

To Counter, Mr. Manoro submitted that the applicants have not proved the three conditions stated in the case of **T. A. Kaare vs. General Manager's Mara Cooperative Union (1984) Ltd (1987) TLR 17** which were borrowed in the case of **Atilio vs. Mbowe (1969) HCD No. 284.**

He admitted that there is issuance of notice on rectification and cancellation of Certification of Title No. 139210 but he submitted that the applicant was informed of such rectification and was granted alternative plot. It was his argument that that the defendant will suffer more if injunction is granted

due to the fact that rectification was necessary as it was done for the purpose of resolving long existing dispute.

Having heard both parties, the issue for determination is whether the Application has merits.

This is Application for maintenance of *status quo* pending 90 days statutory notice whereby the applicant's prayer is that the rectification should not proceed until the expiry of 90 days. The applicant's prayer is that if the defendants proceed with the rectification and the 2<sup>nd</sup> applicant's name is changed, his 90 days notice will be meaningless.

The plaintiff do not seem to agree with defendant's offer of being issued with a substitute land. I see this point suffices for me to grant the Application at hand.

Although the respondents have offered the 2<sup>nd</sup> applicant with another piece of land, the 2<sup>nd</sup> applicant does not seem to agree with the respondent's offer.

In upshot, the application is allowed. The applicants are advised to institute their case as early as practicable, after the expiry of the 90 day's notice of intention to sue the Government. They should also file an Application for injunction pending the suit.

It is so ordered.



  
**T. N. MWENEGOHA**  
**JUDGE**  
**31/08/2022**