

**IN THE HIGH COURT OF TANZANIA
(LAND DIVISION)
AT DAR ES SALAAM
MISC. LAND APPLICATION NO. 561 OF 2022**

BETWEEN

GRAND REGENCY HOTEL LIMITED..... PLAINTIFF

VERSUS

PAZI ALLY 1ST RESPONDENT

**JUMANNE ALLY as personal legal representative of the
Deceased estate of Ally Abdallah Samata 2ND RESPONDENT**

JUMANNE ALLY..... 3RD RESPONDENT

FATUMA ALLY 4TH RESPONDENT

SAUDA ALLY 5TH RESPONDENT

REHEMA ALLY 6TH RESPONDENT

IDD ALLY 7TH RESPONDENT

M.T.C. AUCTION MART COMPANY LTD 8TH RESPONDENT

RULING

A. MSAFIRI, J.

The applicant have instituted an application praying for the following orders;

- i. That this Honourable Court be pleased to make an order of injunction restraining the respondents, their agents, workmen or assignee from

Ally

- evicting and/or making transfer of title of the suit premises located at Plot No. 35 Block "E" Likoma Street, Kariakoo, Dar es Salaam with Title No. 79958, pending hearing and final determination of the main suit.
- ii. Costs of this application be met by the respondents.
- iii. Any other relief which this Honourable Court may deem fit and just to grant.

The application was supported by the affidavit of one Dr. Hans Aingaya Macha, Managing Director of the applicant.

In opposition of the application, the 1st, 3rd, 4th, 5th and 6th respondents filed their joint counter affidavit which was sworn by Mr. Godwin Muganyizi, learned advocate. The 2nd respondent also filed a counter affidavit, affirmed by himself.

The 7th and 8th respondents did not file counter affidavits. In fact, the 8th respondent has never entered appearance in court or filed his counter affidavit despite that he was properly served. On 10/10/2022 the application was set for hearing. The applicant was represented by Mr. Daniel Ngudungi and Ms. Jackline Kulwa, learned advocates. The 1st, 3rd, 4th, 5th, 6th, and 7th respondents were represented by Mr. Silvanus Chingota, learned advocate, the 2nd respondent was represented by Mr. John Kamugisha, learned advocate.

The counsels for the respondents informed the Court that they were conceding to the application and pray that it should be granted so that the main case can proceed on merit.

Alls

Mr. Ngudungi, then prayed to adopt the contents of the affidavit sworn by the Managing Director of the applicant and prayed further that the orders sought in the chamber summons be granted except for the order of the costs which he prayed that each party to bear their own costs.

The major issue is whether the application has merit.

The applicant has stated in the affidavit that, it seek for the orders prayed in chamber summons for the purpose of preserving legally the applicant's rights pending final determination of the suit between the parties.

The applicant stated further that it bought a house built on Plot No. 35 Block B, Likoma Street Kariakoo(herein as suit property) on a public auction. That after it had effected the payment to the auctioneer, the applicant was declared through the Court to be a bonafide purchaser of the said suit property and after transfer process, the applicant was registered as owner of the suit property.

The applicant said that it took possession of the suit property and improved it by constructing a building which is currently a hotel.

It was submitted further that, the respondents have instituted various applications and land cases against the applicant, and has physically visited the land in dispute and demanded forceful vacant possession thereby causing breach of peace.

Having gone through the contents of the affidavit and considering that this application has not been contested by the respondents, it is my view that this application has merit and for the purpose of preserving justice, I hereby grant it.

Adls

The temporary injunction is hereby entered to restrain the respondents from evicting the applicant or making transfer of title on the suit property pending the hearing and determination of the main suit.

I make no order as to the costs.



A. Msafiri

A. MSAFIRI

JUDGE

10/10/2022