

**IN THE HIGH COURT OF TANZANIA**

**(LAND DIVISION)**

**AT DAR ES SALAAM**

**LAND CASE NO 202 OF 2022**

**RASHMEAR SERVICES AND MAINTAINANCE COMPANY**

**LIMITED ..... PLAINTIFF**

**VERSUS**

**GREENALLIGHT AUCTION MART.....1<sup>ST</sup> RESPONDENT**

**JESSICA MOTTO .....2<sup>ND</sup> RESPONDENT**

**JUDGEMENT**

*Date of Last Order: 30/9/2022*

*Date of Judgment: 27/10/2022*

**MWENEGOHA.J.**

Before me there are three preliminary objections in need of determination as raised by the defendants herein as follows; -,

1. The plaintiff has no locus standi.
2. The plaintiff has no cause of action against the defendants.
3. The suit is incompetent for suing a wrong party.

The objections were to be argued by way of written submissions, in the following order; the defendant' submissions in chief were to reach this court by 7<sup>th</sup> October, 2022. Followed by a reply from the plaintiff on the 17<sup>th</sup> October,2022 and a rejoinder if any from the defendants on 27<sup>th</sup>

October,2022. This order was not complied with. The defendants did not file their written submission. **In the matter of the estate of the late Peter Kisumo and in the matter of application for revocation of letter of administration by Peter Kisumo** (Misc. Land Application No. 441/2018) *whereas Mgonya J, held that,*

*"I can say the applicant failure to file his written submission as ordered by this Honorable Court is a serious noncompliance. I'm mindful with the trite law that if the parties are to act in total disregard to the Court orders, then Court business will be rendered uncertain and that will not be good for the efficient of Administration of justice. Therefore, disobedience of an order, court naturally draws sanctions"*

Applying the above position their preliminary objections are here by marked as dismissed for want of prosecution.

I have further instructed parties to address me on the competence of the suit before this Court. Again, the parties did not address me as ordered.

In the case of **P3525 LT. COL. IDAHYA MAGANGA GREGORY V THE JUGDE GENERAL COURT MARTIAL, Criminal Appeal no. 4 of 2002, the case of TANZANIA HARBOURS AUTHORITY V. MOHAMED R. MOHAMED** (2002) TLR 76 where it was held that,

*"Court orders are binding and are meant to be implemented. They must be implemented. If such orders are disrespected the system of justice will be*

*rendered useless and it will create chaotic that everyone will decide to do anything that is convenient to him"*

And the case of **TANZANIA HARBORS AUTHORITY V. MOHAMED** (2002) TLR 76 where the court comment that,

*"The court dully bound to make sure that rules of the Court are observed strictly and cannot aid any party who deliberately commit lapse"*

The plaintiff actions amount to failure to observe the Court process and this is the same as failure to enter appearance during the hearing. Thus, the matter hereby dismissed for that reason. No order as to costs.



  
**T.N. MWENEGOHA**

**JUDGE**