

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

LAND CASE NO. 88 OF 2020

FATUMA HAMISI SULTANI.....PLAINTIFF

VERSUS

**TPB BANK PLC.....1ST DEFENDANT
JUMANNE ABEID IFANDA.....2ND DEFENDANT
ESTHER ALFONCE MAHENDE.....3RD DEFENDANT**

Date of Last Order: 08.04.2022
Date of Ruling: 13.04.2022

RULING

V.L. MAKANI, J

In the course of hearing of this matter, it came to the knowledge of the court that the 1st defendant is a government institution. Since the Attorney General was not made party to this case, parties were invited to address the court on whether the suit was competently before the court.

Mr. Samwel Shadrack, Advocate represented the plaintiff. The 1st defendant was represented by Emmanuel Mwakyembe and Mr. Epafra Mweddu, Advocates; while Mr. Kusalika, Advocate represented the 2nd defendant. The 3rd defendant appeared in person. The arguments by the parties proceeded orally.

because without the said notice then, as said above, the right for the Attorney General to defend the government would not be conveniently exercised as the law mandatorily requires. In the absence of the notice and the joining of the Attorney General the suit stands to be incompetent. (see **Wambura Maswe Karera & 5 Others vs. The Village Council of Mori & Another, Civil Case No. 5 of 2020 (HC-Musoma) (unreported)**)

I am aware of the cited case of **Mwanahamis Habibu** (supra), but each case is founded on its own circumstances. And in any case, the cited case though persuasive is not binding on this matter.

For the reasons above, the suit is hereby struck out for being incompetent. Considering that the issue was raised by the court *suo mottu*, there shall be no order as to costs.

It is so ordered.


V.L. MAKANI
JUDGE
13/04/2022

