IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(LAND DIVISION)

AT DAR ES SALAAM

MISC. LAND APPLICATION NO.685 OF 2021

[Arising from the decision of the District Land and Housing Tribunal of Temeke in Land Appeal N0. 7 of 2017, dated 30th December, 2020]

THE ATTORNEY GENERAL.....APPLICANT

VERSUS

STELLA RUTAGUZA.....1st RESPONDENT

FUSTINE MANYILIZU.....2ND RESPONDENT

R U L I N G

Date of Last Order: 16.06.2022
Date of Ruling: 27.06.2022

T. N. MWENEGOHA, J.

The Attorney General seeks to extend time within which to file an application for Revision against the decision of the District Land and Housing Tribunal for Temeke vide Land Appeal No. 7 of 2019. He is also seeking for an order to stay the execution proceedings in Misc. Application No. 319 of 2019 pending before the District Land and Housing Tribunal for Temeke District.

The application was brought under Sections 14(1) of the Law of Limitation Act, Cap 89 R. E. 2019, Section 95 of the Civil Procedure Code, Cap 33 R. E. 2019, Section 45 of the Land Disputes Cap 216 R. E. 2019 and Section 17(1)(a) of the Office of the Attorney General (Discharge of Duties) Act,

Cap 268 R.E 2019. The same was supported by the affidavit of Hangi M. Chang'a, the Principal State Attorney.

The application was heard by way of written submissions. Jesca Sengena, Principal State Attorney appeared for the applicant. The 1st respondent appeared in person while the 2nd respondent enjoyed the legal services of Advocate Mnyira M. Abdallah.

However, when I was going through the chamber summons, I realized that, the same contains two prayers joined together. The first prayer is for extension of time for the applicant to file an application for Revision out of time. The other is for the court to order a stay of the execution proceedings, which are pending in court vide Misc. Application No. 319 of 2019 before the District Land and Housing Tribunal for Temeke District. This is in my settled opinion, is a very serious question of law that touches the competence of the instant application. Hence the parties were ordered to address the court on the maintainability of the instant application and their arguments were dully considered in my Ruling.

It is settled that, lumping up of two prayers in one chamber summons is allowed if the said prayers are interlinked or interrelated see **OTTU on behalf of P. L. Asenga & 106 others, Super Auction Mart and Court Brokers and Others versus AMI (Tanzania) Limited, Civil Application No. 20 of 2014, Court of Appeal of Tanzania, Unreported)**. If the prayers are different or originate from different provisions of law, joining them makes the application incompetent. This was observed in **Rutagatina CL vs. Advocate Committee, Misc. Civil Application No. 98 of 2010, Court of Appeal of Tanzania, at Dar Es Salaam, (unreported),** where it was held that:-

"So since the applications are provided for under different provisions it is clear that both cannot be "lumped" up together in one application, as is the case here".

Also, the same position was taken in **Godfrey Shoo and Others vs. Mohamed Said Kitumbi, Misc. Land Application No. 109 of 2020, High Court of Tanzania (unreported),** citing in approval the case of **Ally Abbas Hamis versus Najma Hassan Ally Kanji, Misc. Land Application, No. 140 of 2017, High Court of Tanzania, Land Division at Dar Es Salaam (unreported)** where it was held that,

"Lumping of several prayers in a single application which those prayers are also different; and the considerations to be taken into account are different, the conclusion is not hard to find, but to conclude that the application is omnibus".

On the basis of the cited authorities here in above, I find the application at hand to be unmaintainable. The two prayers joined in the chamber summons are totally different hence they cannot be lumped up together in a single application.

Eventually, the application is hereby struck out. No order as to costs.

It is so ordered.

T. N. MWENEGOHA
JUDGE
27/06/2022

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