

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

**MISC. LAND APPLICATION NO. 649 OF 2022**

**SHUBI MUKURASI.....APPLICANT**

**VERSUS**

**CRDB BANK PLC.....1<sup>ST</sup> RESPONDENT**

**ABDALLAH WAZIRI SIMBA.....2<sup>ND</sup> RESPONDENT**

**REGISTRAR OF TITLES.....3<sup>RD</sup> RESPONDENT**

**THE ATTORNEY GENERAL.....4<sup>TH</sup> RESPONDENT**

*Date of Last Order:*            24/02/2023

*Date of Ruling:*                28/02/2023

**RULING.**

**I. ARUFANI, J**

After considering the prayer made to the court by the counsel for the applicant that this application be adjourned to await filing of the suit and application for temporary injunction the court has decided to go through the chamber summons and the documents filed in the court to support and oppose the application so as to see if there is justification for the court to continue to adjourn this application to another date as prayed by the counsel for the applicant.

The court has found the order the applicant is seeking from this court is an order to restrain the third respondent from transferring ownership of the applicants property known as Plot No. 2230 Block H. Certificate of Title No. 54155/212905, Mbezi Beach area of Kinondoni

Municipality in Dar es salaam to the second respondent pending expiration of ninety (90) days notice issued to the third respondent on 12<sup>th</sup> October, 2022 so that they can file a suit in the court.

The court has found the stated ninety (90) days for the stated notice to expire were supposed to come to an end on 11<sup>th</sup> January, 2023. Today it is about 48 days which have passed from when the stated ninety (90) days expired. That being the position of the matter the court has found this application has been overtaken by event as the order the applicant is seeking from the court has already been overtaken by the time it was intended it would have protected the property of the applicant. The court has come to the stated finding after seeing Section 6(3) of the Government Proceedings Act Cap 5 R. E 2019 states clearly that after expirations of the notice period the suit shall be instituted in the court against the Attorney General and the concerned department of the Government.

To the view of this court after expiration of the notice period the applicant was and is at liberty to file the suit he intended to file in the court but he has not stated what caused him to fail to file the stated suit in the court for the stated period of 48 days from when the notice period expired. The court has been of the view that, as the counsel for the first respondent has prayed to withdraw the preliminary objections they had filed in this court there is no justifiable reason which can warrant it to

continue to adjourn this application to any other date as prayed by the counsel for the applicant.

Consequently, the court has found the appropriate step to take is to grant the prayer of the counsel for the first respondent who urged the court to withdraw the points of preliminary objection they have filed in the court and continue to decide the application of the applicant. In the upshot the points of preliminary objection raised by the first respondent in the matter at hand are hereby marked withdrawn as prayed and the application of the applicant is hereby struck out for being overtaken by event. Costs to follow the event. It is so ordered.

Dated at Dar es Salaam this 28<sup>th</sup> day of February, 2023



*I. Arufani*  
I. Arufani

**JUDGE**

28/02/2023

**Court:**

Ruling delivered today 28<sup>th</sup> day of February, 2023 in the presence of Mr. Evance Ignas, advocate for the applicant and in the presence of Ms. Elizabeth Kifai advocate for the first respondent. The rest of the respondents are absent. Right of appeal to the Court of Appeal is fully explained.



*I. Arufani*  
I. Arufani

**JUDGE**

28/02/2023