

**IN THE HIGH COURT OF TANZANIA
(LAND DIVISION)
AT DAR ES SALAAM
LAND CASE NO. 102 OF 2022**

BETWEEN

REGISTERED TRUSTEES

KANISA LA PENTEKOSTE TANZANIA PLAINTIFF

VERSUS

THE ATTORNEY GENERAL 1ST DEFENDANT

KINONDONI MUNICIPAL COUNCIL.....2ND DEFENDANT

TANDALE PRIMARY SCHOOL.....3RD DEFENDANT

RAMADHANI KABETHI.....4TH DEFENDANT

BETTEL MWANJALA.....5TH DEFENDANT

CONSENT JUDGMENT

18/4/2023&25/5/2023

A. MSAFIRI, J.

The plaintiff the Registered Trustees Kanisa la Pentekoste Tanzania filed the suit in this Court against the Attorney General, 1st defendant, Kinondoni Municipal Council, 2nd defendant, Tandale Primary School, 3rd defendant, Ramadhani Kabethi, 4th defendant, and Bethel Mwanjala, 5th defendant.

The plaintiff claims against the 1st, 2nd and 3rd defendants is the discharge of the land which it owned under the name of Kanisa la Pentekoste Tanzania- Manzese Parish located at Tandale in Kinondoni Municipality. That the said land was erroneously included by the 2nd defendant's surveyors as part of the 3rd defendant's land. The plaintiff

Allo

claims further for eviction of the 4th and 5th defendants who trespassed into the plaintiff's land.

The plaintiff prays for judgment and decree against the defendants jointly and severally as follows;

- i. An order to the 2nd defendant to discharge the applicant's land which erroneously was included by the 2nd defendant's surveyors as part of of the 3rd defendant's land.
- ii. Declaration that the 4th and 5th defendants are trespassers into the plaintiff's land.
- iii. Costs of this suit be borne by the defendants.
- iv. Any other relief(s) that this Honourable Court deems fit to grant.

In the suit, the plaintiff was represented by Mr Nehemia Gabo, learned advocate and Ms. Josephine Assenga, learned advocate while the 1st, 2nd, and 3rd defendants were represented by Ms. Leonia Maneno, assisted with Victoria Lugendo, State Attorneys.

The 4th and 5th defendants never enter appearance in Court despite being duly served hence the matter proceeded in their absence.

On 16/03/2023, this Court was informed by the counsels for the parties that they wish to settle the matter amicably and they have started the negotiations on settlement. On 22/5/2023, the parties filed the Deed of Settlement in Court. On 25/5/2023 Ms. Maneno informed the Court that the negotiations of settlement out of Court between the parties have been finalized and a Deed of Settlement have been filed in Court to that effect. He prayed for the matter to be marked settled as per the terms of Deed of Settlement which was filed in Court on 22/5/2023.

Acte

After hearing submissions of parties and having gone through the Deed of Settlement filed in the Court on 22/5/2023, the Court finds that the plaintiff and the 1st, 2nd and 3rd defendants have agreed to settle their dispute amicably on the terms and conditions stated in the said Deed of Settlement.

Therefore, the Deed of Settlement is hereby adopted as the decision of the Court in the case at hand between the plaintiff and 1st, 2nd, and 3rd defendants. Hence, the Court hereby pass a decree in this case pursuant to Order XXIII Rule 3 of the Civil Procedure Code, Cap.33 R. E. 2019. The decree is passed in the following terms:-


- a) That, the signatories to the Deed of Settlement have full mandate to execute the same.
- b) That, the 2nd defendant to conduct resurvey of the land in dispute so as to separate the area of Kanisa la Pentekoste Tanzania, Manzese Parish and area of the Tandale Primary School.
- c) That, the re-survey by the 2nd defendant over the land in dispute be done for the sake of rectifying the demarcation(boundary) between Kanisa la Pentekoste Tanzania, Manzese Parish and Tandale Primary School whereby the plaintiff will pay all costs for discharge of the said land in dispute.
- d) That, signing of the Deed of Settlement will end up any claims against the 1st, 2nd, and 3rd defendants over this case.
- e) That, this Deed of Settlement does not involve 4th and 5th defendants.
- f) That, upon compliance of item 2 and 3 stated above, the 2nd defendant shall officially allocate the land in dispute to the plaintiff and recognize her as the new owner of the land after completion of

Adelle-

all administrative requirements and procedures to own land in Tanzania.

g) It is agreed that each party shall bear its own costs.

It is so ordered.



A. MSAFIRI
JUDGE
25/3/2023

