

**IN THE HIGH COURT OF TANZANIA  
(LAND DIVISION)  
AT DAR ES SALAAM  
MISC LAND APPLICATION NO. 252 OF 2023**

**RITHA DOMINIC MALLYA ..... APPLICANT**

**VERSUS**

**MAENDELEO BANK PLC ..... RESPONDENT**

**RULING**

**A. MSAFIRI, J.**

The applicant Ritha Dominic Malya has filed this application under certificate of urgency seeking for this Court's order inter-partes as follows;

1. This Honourable Court MAY BE PLEASED to issue a temporary injunction restraining the respondent, its assignee, or agent from selling through auction the disputed plot: title Number 94159, Plot No. 1107, Mikocheni area, Kinondoni Municipality in Dar es Salaam Region in the name of DOMINIC ALPHONCE MALLYA pending determination of main case.
2. Costs to the applicant.
3. Any other relief (s) as it shall deem fit to grant.

*Alle*

The application was taken at the instance of Haki Associates Advocates and it was supported by the affidavit of the applicant.

On 29/5/2023, when the application was scheduled before the Court, the applicant was represented by Mr. Hashim Mziray, advocate who appeared for the applicant while Mr. Kelvin Kidifu, advocate appeared for the respondent. Before embarking on hearing, Mr. Kidifu informed the Court that the respondent does not object the application and prayed for the same to be granted but with no order for costs on the respondent.

The only issue for my determination is whether this application has merit.

In her affidavit the applicant stated that in 2018 she borrowed TZS. 425,000,000/= from the respondent which was secured by various properties including the disputed plot. That, she serviced the loan until it remained TZS. 290,000,000/= when she faced economic hardship which incapacitated her and she was unable to continue with loan repayment.

She said further that she communicated with the respondent who refused to allow restructuring of the loan facility to enable smooth repayment. *Alls.*

That, the respondent has breached the loan agreement by threatening to sell the disputed mortgaged property through auction.

The applicant averred that, in the event this application will not be granted, the applicant will suffer irreparable loss. That the guarantor Dominic Alphonse Malya who was her husband, has passed away and the beneficiaries of his estate are yet to decide on the fate of the disputed property.

The applicant argued that, if the disputed property will be sold, then the beneficiaries of the estate including the applicant will lose their inheritance.

Since the application was not contested, I am of the view that the applicant has managed to establish that the same has merit.

In upshot, the application is hereby granted with no order as to the costs.

  
.....  
**A. MSAFIRI**  
**JUDGE**  
**29/5/2023**

