

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

MISC. LAND APPLICATION NO. 302 OF 2023

FRANK KULWA KANIZIO..... APPLICANT

VERSUS

SOPHIA MUSA SELEMAN T/A GASO GROCERY1ST RESPONDENT

CRDB BANK PLC.....2ND RESPONDENT

THE REGISTERED TRUSTEE OF

TAIFA FOUNDATION TRUST.....3ND RESPONDENT

MEM AUCTIONEERS AND GENERAL

BROKERS LIMITED.....4TH RESPONDENT

GO PROPERTY CONSULTANTS AND

AUCTIONEERS COMPANY.....5TH RESPONDENT

COMMISSIONER FOR LAND.....6TH RESPONDENT

THE REGISTRAR OF TITLES.....7TH RESPONDENT

THE ATTORNEY GENERAL.....8TH RESPONDENT

RULING

29th May, 2023

L. HEMED, J.

This is an application for Mareva injunction. It has been filed under section 2 (3) of the Judicature and Application of laws Act, (Cap 358 RE 2019) and section 95 of the Civil Procedure Code, (Cap 33 RE 2019). The applicant is seeking for the following orders:

- i. That the Honorable Court be pleased to grant an order for injunction against the all respondents, their agents or assignees in the Title be restrained from doing any kind of business, evicting tenants, repair or contraction on the property on a certificate of Title No. 122154, Plot No. 371, Block Q 1, Registration Plan No. 70189, Kibamba, within Ubungo (the suit property) pending expiration of Ninety (90 days) statutory notice served on the 6th, 7th and 8th Respondents and filing of the main case/suit pertaining the suit property." (Sic)*
- ii. Costs of this application be borne by the 1st, 2nd, 3rd, 4th, and 5th Respondents.*
- iii. Any other order this Honorable Court finds fit and just to grant."*

The application is supported by the affidavit deposed by one FRANK KULWA KANIZIO. Having gone through the affidavit in support of the application, I realized that the applicant is looking for injunctive orders pending the lapse of 90 days notice so that he may institute a suit to challenge the act of the Registrar of Titles to transfer title of the suit landed property.

On 29th May 2023, when the matter came for mention, this court raised a point on the tenability of the application at hand in view of section 102 of the Land Registration Act (Cap 334 RE 2019). The learned counsel for the parties were called to address on the point.

Mr. Lunyolo, Adolf, advocate who appeared for the applicant conceded the point and prayed the court to strike out the application without costs. On their part, Mr. Alfred Rweyemamu, advocate for the 1st respondent; Mr. Jimmy Mroso, counsel of the 2nd respondent, Mr. Erasmus

Buberwa, advocate of the 3rd and 5th respondents; and Mr. Elias Mwendwa, learned State Attorney for the 6th, 7th and 8th respondents, supported the point and did not object the prayer of the applicant's advocate as to waiver of costs.

Having heard from the learned counsel for the parties, let me state why the present application is untenable. It should be noted that, the present application seeks for temporary injunction pending instituting a suit to challenge the decision of the Registrar of Titles to effect transfer of title over the suit landed property. Section 102 (i) of the Land Registration Act (Cap 334 RE 2019) provides thus:-

" Any person aggrieved by a decision, order or act of the Registrar may appeal to the High Court within three months from the date of decision, order or act."

It is my firm view that a decision or act to transfer title by the Registrar is challengeable by way of appeal to this Court and not by way of a suit as intended by the applicant herein. This being the position, the instantaneous application is untenable as no suit will be instituted to challenge the acts of the Registrar of Titles to transfer the title in question.

In the upshot, the entire application is hereby struck out. Each party to bear its own costs. Order accordingly.

DATED at **DAR ES SALAAM** this 29th day of March, 2023.




L. HEMED
JUDGE

COURT: Ruling is delivered this 29th March, 2023 in the presence Mr. Lunyolo Adolf, Advocate for the Applicant and Mr. Alfred Rweyemamu, Advocate for the 1st Respondent, Mr. Jimmy Mrosso, Advocate for the 2nd Respondent, Mr. Erasmus Buberwa, Advocate for the 3rd and 5th Respondents and Mr. Elias Mwendwa and Doreen Mhina, State Attorneys, for the 6th , 7th and 8th Respondents.

