

IN THE HIGH COURT OF UNITED REPUBLIC OF TANZANIA

(LAND DIVISION)

AT DAR ES SALAAM

LAND CASE NO. 23 OF 2023

JOSEPHINE KIAME As Administratrix of the Estate of

CECILIA PAULPLAINTIFF

VERSUS

EMILI BATIST KIAME As Administrator of the Estate of

ANTONY STEPHEN KIAME1ST DEFENDANT

MAGA MAGOMBE As Administrator of the Estate of

LILIAN KIAME MAGOMBE 2ND DEFENDANT

PATRICIA KIAME.....3RD DEFENDANT

EMILI KIAME4th DEFENDANT

ZENANI KIAME5TH DEFENDANT

CONSENT JUDGMENT

3^d July 2023

L. HEMED, J.

The plaintiff herein above named, filed this suit against the defendants suit claiming that the suit landed property known as Plot No. 69, Block E, Kariakoo Area, Ilala, Dar es Salaam with Certificate of Title No. 144628, is part of the estate of the late of CECILIA PAUL. She alleged further that the the, 2nd, 3rd, 4th and 5th defendants have fraudulently and unlawfully transferred and registered the suit property

in their names as owners in common.

The Plaintiff prayed for Judgement and Decree against the Defendants for the following orders;

- i. The declaration order that the current ownership by the defendants of the house in dispute located on Plot No. 69, Block 'E,' Kariakoo Area, Dar es Salaam vide Title No. 144628 is null and void ab initio as it was fraudulently and unlawfully procured by defendants.*
- ii. The declaration order that the CECILIA PAUL (deceased) is the lawful owner of the house in dispute located on Plot No. 69, Block 'E,' Kariakoo Area, Dar es Salaam vide Title No. 144628.*
- iii. The declaration order that the plaintiff be registered as legal person representative of CECILIA PAUL (Deceased) of the house in dispute located on Plot No. 69, Block 'E,' Kariakoo Area, Dar es Salaam vide Title No. 144628.*
- iv. The declaration order for payment of rents to the plaintiff to the tune yearly of Tshs. 20,000,000/= from October 2008 to the date of judgment of this matter.*

v. An Order for the payment of general damages to the tune of Tshs. 150,000,000/=

vi. Costs of this suit.

vii. Any other order and/or relief(s) as the honorable court may deem fit and just to grant."

The defendants disputed the plaintiff's claims *vide* the joint Written Statement of Defence which was lodged in this Court on 1st day of March 2023. In their defence the defendants claimed that the suit property belongs to one ANTHONY STEPHEN KIAME who acquired the same through Deed of Gift.

Following the failure of mediation process, final pre-trial conference was held on 7th June 2023 and the matter was scheduled for hearing on 19th July, 2023. However, on 7th day of July 2023, parties filed their **Deed of Settlement** and requested for audience before the trial Judge for purposes of recording it as Consent Judgment. Audience was availed to them. On the said day, **Mr. Joseph Msengezi**, learned advocate represented the plaintiff while **Mr. Richard Kinawari**, learned counsel actively appeared for the defendants. Parties through their respective advocates prayed that their Deed of Settlement be adopted and recorded as follows:

1. That the plaintiff irrevocably agrees to surrender to the defendants and their potential purchaser namely

HANS AINGAYA MACHA the houses located on **Plot NO. "69" Block "E" with TITLE NO.144628 KARIAKOO AREA, ILALA Municipality, Dar es Salaam** which was claimed by the plaintiff to be the estate of the late **CECILIA PAULO**.

2. The defendants through their potential purchaser namely **HANS AINGAYA MACHA** agreed to pay the plaintiff the sum of **FOUR HUNDRED MILLION, TSHS.400,000,000/=** as consideration of the **Deed of Settlement** soon there after signing of the Deed of Settlement.
3. That since the plaintiff owed debt from **VENERANDA ENOCK TUZA** of **Tanzanian Shillings Two Hundred and Ninety Five Million (Tshs. 295,000,000/=** the beneficiaries of the late **CECILIA PAULO** agreed that the said amount of money be paid directly from the potential purchaser to **VENERANDA ENOCK TUZA** through her bank namely CRDB Account number 0152243313300 in the name of **VENERANDA CHOCHA BACHUNYA**.
4. That the plaintiff agreed that the remaining sum of **One Hundred and Five Million (Tshs. 105,000,000/=)** shall be paid directly from the potential purchaser to the respective bank accounts of the beneficiaries.
5. That the caveat entered by the caveator in respect of

**Plot NO. "69" Block "E" with TITLE NO.144628
KARIAKOO AREA, ILALA Municipality, Dar es
Salaam** has to be withdrawn.

6. That both parties agreed and acknowledge that beneficiaries from seven families of the children of CECILIA PAULO have consented and signed the Deed of Settlements as witnesses.
7. That, there shall be no any further suit in respect of the suit property.

Having recorded the settlement by the parties, this Court hereby enters Consent Judgment as agreed by the parties. It is so ordered.

DATED at **DAR ES SALAAM** this 3rd day of July, 2023.




**L. HEMED
JUDGE**