

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

MISC. LAND APPLICATION NO. 381 OF 2023

(Originating from Land Case No. 199/2023)

HASNAIN GULAM HUSSEINAPPLICANT

VERSUS

AZANIA BANK LIMITED.....1ST RESPONDENT

MARK AUCTIONEERS AND COURT

BROKERS COMPANY LIMITED.....2ND RESPONDENT

SMX LIMITED.....3RD RESPONDENT

RULING

05th July, 2023

L. HEMED, J.

HASNAIN GULAM HUSSEIN, the Applicant in this application lodged the present application on 27th June, 2023 against the respondents, AZANIA BANK LIMITED, MARK AUCTIONEERS AND COURT BROKERS COMPANY LIMITED and SMX LIMITED seeking for the following orders:

"...That the Honourable court be pleased to issue a temporary injunction order restraining the 1st and 2nd Respondents, their agents and/or servant; workmen and any other person acting on their behalf or on behalf of any other person or authority from auctioning, disposing, evicting, transferring and threatening/attempting to sale the Applicant's properties described as office No. 5 Kadry Complex, 1st floor, located on Plot No. 1036/1102 & 37/102,

Flur 11, Samora Avenue Road (0.059) undivided shares with certificate of Title No. 47882 and Office No. 6 Kadry Complex, located on Plot No. 1036/102 & 37/102, flur 11, Samora Avenue Road (0.072) undivided shares with certificate of Title No. 47882 ("suit premises), pending the hearing and determination of the main suit, Land Case No. 199 of 2023 between the parties herein.

d. Cost of the application be provided

e. Any other order or relief(s) and the court may deem proper and fair to grant."

The application was supported by the affidavit deponed by the applicant himself. When the matter was called for necessary orders on 5th July, 2023, the Plaintiff were represented by Mr. Delphinus Penessis, learned advocated while the 1st Defendant enjoyed the service of Ms. Endael Mziray, learned advocate. On the said date, it was found that the respondents were yet to file counter affidavit.

Mr. Penesis submitted praying for an order to maintain *status quo* on the suit premises pending determination of the application *interparties*. On her part, Ms. Mziray among other things submitted to concede the application to the effect that *status quo* be maintained so that the main case is determined expeditiously.

Having gone through the submissions made by the learned counsel for both parties, it is very clear that both counsels are at one that this application be granted by issuing an order to maintain the *status quo* pending determination of the main suit. The condition given by Ms. Mziray while

conceding the application is that the main case should be determined expeditiously.

The fact that the application has been conceded by the respondents, this court has no option other than granting the application. I do not hereby proceed to grant the application to the effect that: -

1. *STATUS QUO* be maintained on the suit landed property pending determination of Land Case No. 199 of 2023.
2. Each party to bear its own costs.

It is so ordered.

DATED at DAR ES SALAAM this 05th day of July, 2023.



L. HEMED
JUDGE



COURT: Ruling delivered this 5th July, 2023 in the presence of Mr. Delphinus Penesis, advocate of the applicants and Ms. Endael Mziray, advocate of the 1st respondent.



L. HEMED
JUDGE

