

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

**MISC. LAND CASE APPLICATION NO.312 OF 2023**

**JOYCE ANDREW NYUMAYO.....1<sup>ST</sup> APPLICANT**

**CHRISTINA OBADIA NGOLOKA.....2<sup>ND</sup> APPLICANT**

**VERSUS**

**EDWIN DAMACEN RWEIKIZA.....1<sup>ST</sup> RESPONDENT**

**ERICK ANDREW NYUMAYO.....2<sup>ND</sup> RESPONDENT**

**VIBE INTERNATIONAL COMPANY LIMITED.....3<sup>RD</sup> RESPONDENT**

**TANZANIA COMMERCIAL BANK.....4<sup>TH</sup> RESPONDENT**

**AFRIMAX ENTERPRISES.....5<sup>TH</sup> RESPONDENT**

**ATTORNEY GENERAL.....6<sup>TH</sup> RESPONDENT**

**R U L I N G**

*Date of Last Order: 21.06.2023*

*Date of Ruling: 20.07.2023*

**T. N. MWENEGOHA, J.**

The applicants sought for an Injunction Order against the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> respondents, and any person working for them or under their instructions, from attaching and sale, of their landed properties located at, Plot No. 1035, Block I, Temeke Area, within Temeke Municipality and Plot No. 85, Block J, Bunju Area, within Kinondoni Municipality in Dar es Salaam Region, pending the expiry of 90 days' Statutory Notice of intention to sue the 4<sup>th</sup> and 5<sup>th</sup> respondents.

The order has been preferred under **Section 2(3) of the Judicature and Application of Laws Act, Cap 384, R. E. 2019** and **Section 95 of the Civil Procedure Code, Cap 33 R. E. 2019**. It was supported by the affidavits of the applicants above named.

The Application was heard by way of written submissions. Advocate Omega Emanuel Joel appeared for the applicants. Advocate Davis Sixbert Rweyemamu, represented the 1<sup>st</sup> to 3<sup>rd</sup> respondents. Leonia B. Maneno, learned State Attorney, appeared for the 4<sup>th</sup> and 6<sup>th</sup> respondents. The 5<sup>th</sup> respondent did not contend the application.

Mr. Omega in his submissions, relied on the jurisprudence developed by case laws with regard to Mareva Injunctions. That is, **Mareva Companies Naviera SA versus International Bulkcarriers SA, (1980) 1 All ER 213**. He insisted that, the applicants have not yet instituted any suit against the respondents. That's why they preferred a Mareva Injunction. It is because, the applicants are prevented by the law, to sue the 4<sup>th</sup> and 6<sup>th</sup> respondents, until the expiry of the 90 days' notice. He added that, this Court should allow this application, owing to the existence of a *prima facie* case, between the Applicants and the respondents, as held in **Bish Tanzania Limited versus National Housing Corporation and Another, Misc. Land Application no. 372 of 2022(unreported)**. Further, the applicants will suffer irreparable loss if the Application is denied. That, they will lose homes and have nowhere to go. Therefore, they are likely to suffer greater harms than the respondent if the Application fails.

In reply, Mr. Rweyemamu, for the 1<sup>st</sup> to 3<sup>rd</sup> respondents, supported the Application and insisted that, the same be allowed as prayed.

On the other hand, the learned State Attorney for the 4<sup>th</sup> and 6<sup>th</sup> respondents, insisted that, the Application should be denied. That, the applicants have not met the tests given in **Atilio versus Mbowe (1969) HCD, 284**. That, there is no any serious question of facts in need of the Court's determination. Also, even if the Application is denied, the applicants will not suffer any irreparable loss. In the submissions by their learned counsel, they have not provided any proof of such loss, rather mere allegations only. That, on balance of convenience, it is the respondents who stand to suffer more than the applicants if the Application is allowed.

In rejoinder, the applicants' counsel restarted his submissions in chief.

Having gone through the submissions of both parties through their learned counsels, the question for determination is whether the Application has merits or not.

As argued by the applicants' counsel, this Application is in the nature of Mareva Injunction. The applicants need to restrain the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> respondents and any person working under their instructions, from doing what they intend to do over the properties, listed herein above, pending the expiry of 90 days' Statutory Notice of intention to sue the government. The said notice has already been served to the government as stated under paragraphs 10 of the 1<sup>st</sup> applicant's Affidavit and paragraph 11 of the Affidavit by the 2<sup>nd</sup> applicant.

These facts were not disputed by the learned State Attorney for the 4<sup>th</sup> and 6<sup>th</sup> respondent, who appeared to be against the grant of the reliefs sought in this case. As the applicants have already taken steps towards suing the 4<sup>th</sup> and 6<sup>th</sup> respondents, I am of the view that, their interests on

the subject matters of their intended suit have to be protected. We will do so by allowing the Application at hand and not otherwise, as it is justifiable and convenient, see **Abdallah M. Maliki & 545 Others versus Attorney General & Another, Misc. Land Application No. 119 of 2017, High Court of Tanzania at Dar es Salaam, (unreported).**

In the upshot, the Application is allowed. The applicants are advised to institute her case as early as practicable, after the expiry of the 90 days' notice of intention to sue the government and file a fresh application for injunction pending the main suit.

No order as to costs.



  
**T. N. MWENEGOHA**  
**JUDGE**  
**20/07/2023**