

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

MISC. LAND APPLICATION NO. 564 OF 2023

DAVID MARWA ISAIHAH APPLICANT

VERSUS

NATIONAL INSURANCE CORPORATION 1ST RESPONDENT

THE ATTORNEY GENERAL.....2ND RESPONDENT/NECESSARY PARTY

RULING

I. ARUFANI, J

The applicant filed in this court the application under section 2(3) of the Judicate and Application of laws Act Cap 358 R.E 2021, Sections 68(e) and 95 of the Civil Procedure Code Cap 33 R.E 2021 (as amended). The application is made under certificate of urgency and the applicant is seeking for two set of orders. The first set is the ex parte orders and the second set is the inter aparte orders.

One of the orders the applicant is praying in the set of ex parte orders is an order to maintain status quo to the parties so as to restrain the first respondent, its agents, employees or workmen from evicting or interfering with the applicants tenancy of premises in dispute known as Apartment No. 12 – AC in Investment House located at Plot No. 764/36 - 765/37 Block No. 33, Dar es Salaam pending determination of the application for maintenance of status quo inter parte as the first respondent has issued eviction order illegally and un – procedurally.

Today when the matter was called for mention the applicant was represented by Dr. Chacha Murungu, learned advocate and the respondents were represented by Mr. Steven Kimaro, learned State Attorney and assisted by Mr. Abeid Busohera, legal officer from the office of the first respondent. After the counsel for the applicant prayed the court to grant the above sought ex parte order, Mr. Steven Kimaro resisted the said prayer and argued it should not be granted as there is no eviction order which has been issued against the applicant by the respondent.

Upon considering the rival submissions made to the court by the counsel for the parties in relation to the sought order and after seeing the respondents have not filed their counter affidavit in the matter and they are seeking for leave to file their counter affidavit, the court has found it will not be justifiable to refuse to grant the order sought from the court by the applicant in the ex parte part of his application.

The court has come to the stated finding after seeing there is no dispute that the applicant has been served with notice to vacate from the suit premises within thirty (30) days from the date of being served with the notice and the stated period has already expired. The court has been of the view that, as rightly stated by the counsel for the applicant if the stated order of maintaining the status quo will not be granted there is a

danger as rightly stated by the counsel for the applicant of anything to be done which will render the application before the court nugatory before being heard and determined on merit.

It is because of the above stated reasons the court has found it is proper for the interest of justice and maintenance of the status quo of the subject matter of the suit premises to await the respondents to file their counter affidavit in the matter and see how the application shall be determined after hearing the application inter parte.

In the premises the court is hereby granting an ex parte interim order of maintaining the status quo of the subject matter referred in this ruling. To avoid use of the stated order to delay determination of the application on merit the said order will last until the date which will be fixed by the court for other steps of the application. It is so ordered.



I. Arufani
I. Arufani
JUDGE
11/09/2023

Order:

1. Mention on 05/10/2023
2. Respondent's counter affidavit to be filed within fourteen **(14) days** from today.
3. Reply to the counter affidavit if any to be filed within seven **(7) days** from the date of service.

4. An interim order to maintain status quo of the suit premises in the sense of not evicting the applicant from the suit premises to last until the date fixed for mention of the application.



I. Arufani
JUDGE
11/09/2023

