

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

MISC. LAND CASE APPLICATION NO.607 OF 2023

LEOKADIA AKWILINI KIMARIO.....APPLICANT

VERSUS

PHINISON INVESTMENT.....1st RESPONDENT

VERTEX SERVICES.....2ND RESPONDENT

RULING

Date of Last Order: 10.10.2023

Date of Ruling: 30.10.2023

T.N. MWENEGOHA, J

The applicants above approached this Court praying for injunctive orders against the respondents. It was their prayer exparte that the respondents be stopped from construction activities Plot Number 22, Block 28 in Kariakoo area with Certificate of Title No. 195793 as they are using the applicants' name and credentials in construction project that the respondents are partaking. Further to that, it was also the applicants' prayers that this Court annul and suspend agreement entered into for the execution of the construction activities which have been procured under applicant's names.

The applicants further prayed interparte that the 1st respondent be ordered to effect and complete the registration of the disposition of the above mentioned property and a prayer that the 1st respondent be

permanent stopped from using the applicants' names in development of Plot Number 22, Block 28 in Kariakoo area with Certificate of Title No. 195793.

It was the arguments of the applicants that they had entered into a valid sale agreement with the 1st respondent and the contract for sale was concluded where the 1st respondent paid a sum of Tanzanian Shillings Four Billion (TZS 4,000,000,000.00) for Plot Number 22, Block 28 in Kariakoo area with Certificate of Title No. 195793. However, the 1st respondent had not transferred the property in his full name.

Upon being served with the Application, the 4th and 5th respondents filed a preliminary objection to the effect that the applicants have no locus standi to institute the Application and that they have no cause of action against the 4th and 5th defendants. In addition to that, this Court raised an issue suo motto and wanted the applicants to address it on the competence of the Application for being Omnibus. Parties were ordered to address the Court where they did so orally. All parties submitted that the Application is omnibus for containing different prayers.

As noted above, the Application has lumped up four different prayers before this Court. As the applicants have conceded that the Application is incompetent and the respondent have expressed the same, I will not dwell much on discussing the anomalies of this Application. It suffices to state herein that lumping together unrelated prayers is a very serious question of law that would touch the competence of any Application including the instant one. I refer to the cases of **OTTU on behalf of P.L Asenga &**

106 others, Super Auction Mart and Court Brokers and Others versus AMI (Tanzania) Limited, Civil Application No. 20 of 2014, Court of Appeal of Tanzania, Unreported).

Further in **Godfrey Shoo and Others versus Mohamed Said Kitumbi, Misc. Land Application No. 109 of 2020, High Court of Tanzania (unreported)**, citing in approval the case of **Ally Abbas Hamis versus Najma Hassan Ally Kanji, Misc. Land Application, No. 140 of 2017, High Court of Tanzania, Land Division at Dar es Salaam (unreported)** where it was held that,

"Lumping of several prayers in a single application which those prayers are also different; and the considerations to be taken into account are different, the conclusion is not hard to find, but to conclude that the application is omnibus".

On the basis of the above mentioned, I find this Application to be unmaintainable.

Consequently, the Application is hereby struck out with costs.

T.N. Mwenegoha.

Judge

30/10/2023