

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

**MISC LAND APPLICATION NO. 749 OF 2023**

(Original Bill of Costs No. 127 of 2022 which  
Originated from Land Case No. 320 of 2017)

**KCB BANK TANZANIA LIMITED.....APPLICANT**

***VERSUS***

**MARIAM OMARI ZAHORO (As administratrix of the  
Estate of the Late Omari Zahoro).....1<sup>ST</sup> RESPONDENT**  
**HUDUMA GINNERS LIMITED.....2<sup>ND</sup> RESPONDENT**  
**SADIKI RAMADHANI BWANGA.....3<sup>RD</sup> RESPONDENT**  
**MEM AUCTIONERS & GENERAL BROKERS LTD.....4<sup>TH</sup> RESPONDENT**  
**HASSAN ALLY MAWA.....5<sup>TH</sup> RESPONDENT**

**RULING**

12<sup>th</sup> to 14<sup>th</sup> March, 2024

**E.B. LUVANDA, J**

This is an application for extension of time to file reference against the decision of the taxing officer dated 10/05/2023. In the affidavit in support of a chamber summons, the Applicant grounded illegality in the impugned ruling, in that it cannot be executed against each one of the decree debtors (Applicant and Second to Fifth Respondents) for reason that no sums were decreed against each of them. Secondly the Applicant pleaded technical delay in prosecuting

Misc. Land Application No. 559/2023, which was struck out on technicalities on 30/10/2023, lastly technical glitch alleging as from 3<sup>rd</sup> to 5<sup>th</sup> November, 2023 e-case management was shut down by the Judiciary for maintenance, as per notice annexure TMA-6.

The First Respondent asserted that she is the one to execute the decree and is not seeing how it is unexecutable. She stated that there is no illegality whatsoever and she went on to heap blame to the Applicant for hindering her to enjoy fruits of her decree, for unnecessary delays for filing the instant application.

The Second, Third, Fourth and Fifth Respondent, defaulted to appear, hence the matter proceeded in their absence.

Mr. Ndehorio Sindato Ndesamburo learned Counsel for Applicant submitted that the Applicant filed timely an application for Reference No. 16/2023 which was struck out on technical ground on 28/07/2023, arguing the Applicant has been in corridors fighting for his rights. He submitted that the taxing officer wrongly taxed the costs generally without division to each of the Respondents arguing it to be an illegality on the face of the records, citing **Omari Shabani Nyambu s. Dodoma Water & Sewarage Authority**, Civil Application No. 146/2016 CAT Dsm.

The First Respondent did not file a reply.

In the impugned ruling, the taxing made the following verdict,

*"Making a grand total of Tshs nine million, one hundred and thirty five thousands only (9,13,500) and the rest amount is taxed off.*

*Order accordingly"*

The taxing officer did not say whether the Respondents therein (Applicant along Second to Fifth Respondents, inclusive, herein) are either jointly and severally liable, neither apportioned a liability by way of shares or percentage. This suggest an illegality.

I have also considered technical delay in prosecuting Reference No. 16/2023 filed timely but struck out technicalities on 28/07/2023 and Misc. Land Application No. 559/2023 for extension of time, also struck out on technicality on 30/10/2023. The striking out of the two matters above were all orchestrated by the First Respondent's preliminary objection on technicalities, which can be taken as a contributory to the delay. To my opinion, I take it as a good ground for extending time. This is along a ground of technical glitch, which had a devastating effects on litigants accessing filing.

In totality the application is meritorious. The Applicant is given an extension of ten days to present the intended reference.

The Application is granted without costs.



E. B. LUVANDA  
**JUDGE**  
14/03/2024

Ruling delivered in the presence of Mr. Elieza Msuya learned Counsel for Applicant and in the absence of the Respondents.



E. B. LUVANDA  
**JUDGE**  
14/03/2024