

TANZANIA / JUDGMENT

amina m sunje vs tandahimba district council 2 others 2023 tzhc 23153 28 november 2023

COURT
TZHCDECIDED
28 November 2023

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THE UNITED REPUBLIC OF TANZANIA JUDICIARY IN THE HIGH COURT OF TANZANIA
(MTWARA DISTRICT REGISTRY) AT MTWARA CIVIL CASE NO.04 OF 2022 AMINA
M.SUNJE..... PLAINTIFF VERSUS TANDAHIMBA DISTRICT
COUNCIL.....1st DEFENDANT MUSTAFA AYUBU MTULILE.....2nd
DEFENDANT ATTORNEY GENERAL.....3rd DEFENDANT CONSENT
JUDGEMENT (DEED OF SETTLEMENT) (Made under s.95 read together with Order VIII. C Rule
24, 33(a) and Order XXIII Rule 3 of the Civil Procedure Code Cap. 33 R.E, 2019) 28/11/2023
LALTAIKA, X The plaintiff, AMINA M. SUNJE, on 25/02/2022 filed this suit against the defendants
and claimed the following reliefs as reproduced herein below:

- (a) That the suit be decreed in favour of the plaintiff and against the defendant and accordingly 2nd defendant be ordered to forthwith removed himself and his belonging from Plot No. 209 Block "A" Pagel of 4 Tandahimba MJini and deliver to the plaintiff quiet and vacant possession of the suit. .
- (b) That, 2nd Defendant be ordered to build the destroyed house of the Plaintiff and handle over as it was before unlawful demolition or compensation of seventy million.
- (c) An order for declaration that the 1st Defendant re allocation to 2nd Defendant a Plot No. 209 Block A Tandahimba MJini was null and void.
- (d) The Plaintiff be entitled to compensation of Tshs. 70,000,000/= (Seventy Million) as general damage.
- (e) That the cost of this suit be provided.
- (f) Any other relief (s) this Honorable Court may deem Just and equitable to grant. After completion of pleadings, the suit proceeded to the stage of mediation of which I was appointed to be the mediator. During mediation parties showed interest to settle the dispute and agreed to file the Deed of Settlement. The Plaintiff always appeared in person and unrepresented while the first and third Defendants enjoyed the services of Mr. Masunga

Kamihanda, learned State Attorney. On the other hand, the second Defendant appeared in person and unrepresented. In so doing, on 27/01/2023 they lodged in this court a Deed of Settlement. Besides that, the learned counsels have implored this court to record the Deed of Settlement as part of the Decree of the court. Having dispassionately gone through the filed Deed of Settlement, I am fortified that it confirms with the requirements of the law (O.XXIII Rule 3 of the Civil Procedure Code [Cap. 33 R.E. 2019]). Consequently, I proceed to adopt the terms and conditions of the registered Deed of Settlement to form part and parcel of this consent judgment as appearing herein below: - Page 2 of 4 "NOW THEREFORE PARTIES HERETO HAVE AGREED AS FOLLOWS: -

1. That, formally Plot No. 209 Block A' located at Tandahimba MJini was allocated to the Plaintiff for terms and conditions that same be developed by constructing a residential house within a year,
2. That, the Plaintiff attempted to develop the said Plot, however, she did not comply to the conditions as required, as a result, Plot No. 209 Block "A" was reallocated to Mr. Mustafa Ayubu Mtulile (The Second Defendant named above).
3. That, it was later on discovered that, though the Plaintiff did not execute the conditions envisaged in the one year Offer of the Right of Occupancy; cancellation of the same and subsequent reallocation of Plot No. 209 Block 'A' to Mr. Mustafa Ayubu Mtulile was also done without notification to the Plaintiff.
4. That, since Plot No. 209 Block 'A' has already been reallocated to Mr. Mustafa Ayubu Mtulile, and same has already been developed; the Plaintiff and the Defendant have agreed that the Plaintiff be compensated by allocating her another Plot, plus paying her TZS. 15,000,000/= both being compensation in place of her Land and anything which was found in that Land by the Second Defendant.
5. That, the Defendant has agreed to pay the said money in three equal installments at TZS, 5,000,000/- per each Installment, as follows. The whole amount to be paid on or before 15th of December 2023
6. That, after execution of this Deed of Settlement the Defendant has agreed to allocate to the Plaintiff the said Plot as per clause 4 above, known as Plot No Block "E" Located at Matogoro Area Tandahimba MJini forthwith and the Plaintiff has agreed to the said arrangements.
7. That, after execution of this Deed of Settlement Land Case No. 04 of 2022 shall be marked settled out of Court annexed Mediation, and the Plaintiff shall be precluded from instituting another suit against the above-named Defendants on the same cause of action or disturbing and trespassing on the said Land.
8. That, this Deed of Settlement shall be extracted and recorded as a Court Decree capable of being executed upon failure by either party to fulfill the conditions under this settlement.

9. That, this Deed of Settlement shall be governed by the laws of Tanzania and each party shall bear its own costs." Page 3 of 4 Therefore, I hereby declare that the executed Deed of Settlement effective from the date when it was lodged in this court, that is, on 28/11/2023, binds all parties herein and to the subsequent applications or suits arising from the same cause of action. Thus, this court do hereby invoke powers under section 95 and Order XXIII Rule 3 of the Civil Procedure Code [Cap. 33 R.-E-. 2019], to mark Land Case No.4 of 2022 amicably settled. More so, the Terms and Conditions contained in the executed Deed of Settlement as summarized herein above, adopted hereto, forming part of this Court Judgment and Court Decree. ALTAIKA Judgement delivered this 28th day of November 2023 in the presence of Mr. Robert Masunga Kami hands, learned State Attorney for the first and third Defendants while the Plaintiff and the second Defendant have appeared in person and unrepresented. ALTAIKA JUDGE 28.11.2023 Page 4 of 4

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ORIGINAL SOURCE	https://media.tanzlii.org/media/judgment/306330/source_file/amina-m-sunje-vs-tandahimba-district-council-2-others-2023-tzhc-23153-28-november-2023.pdf
CASE PAGE	https://chat.esheria.ai/case-law/tanzania/amina-m-sunje-allocationofland-tzhc-2023--6a3ea52d3b1caa91298265c5

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