

TANZANIA / JUDGMENT

CIVIL CASE D

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22 July 2024

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IN THE HIGH COURT OF TANZANIA MUSOMA SUB REGISTRY AT MUSOMA CIVIL CASE NO. 000027198 OF 2023 REFERENCE NO. 20231208000027198 BETWEEN BUNDA TOWN COUNCIL..... 1st PLAINTIFF ATTORNEY GENERAL..... 2nd PLAINTIFF VERSUS D.S TRADERS COMPANY LTD..... DEFENDANT SUMMARY JUDGMENT 22nd AND 22nd July 2024 M. L. KOMBA, J.: In a way of summary suit, the 1st plaintiff is claiming from defendant a sum of Tsh. 65,199, 221.28 being service levy which was supposed to be paid to the 1st plaintiff for a diverse period of time from January 2019 up to June 2023. The amount claimed is a service levy which is payable to the council for services rendered within the Town. Basing on section 6(l)(u) of the Local Government Finance Act, Cap 290 R.E 2019, the amount claimed is calculated basing on 0.3% of the sales of the company. Page 1 of 3 In suits of this nature defendant has no automatic right to defend, the leave must be sought and obtained as per provisions of Order XXXV Rule 2

- (2) of the Civil Procedure Code Cap 33 R.E 2022. Undoubtedly, failure to obtain leave, the Plaintiff will be entitled to the Judgement and Decree on the amount claimed. From the record, defendant failed to obtain leave to defend regardless that he was served with summons. He did not show up in any of the scheduled date although he is aware of this suit. That is to say, the Defendant have defaulted in obtaining leave to appear and defend the suit. Mr, Ndalo who represented the Plaintiffs has prayed for a summary judgment under Order XXXV Rule 2 (2). The cited provision is to the effect that in default of the defendant obtaining such leave or of his appearance and defence in pursuance thereof, the allegations in the plaint shall be deemed to be admitted. It was pleaded by the 1st Plaintiff that, defendant is a business man in Bunda and from the year 2019 up to June 2023 he has never paid the service levy for his sales contrary to the law and make the debt to accrue to the tune of Tsh. 65,199, 221.28. In effort to collect the amount, plaintiff Page 2 of 3 called defendant in a meeting in order to discuss the debt and how he can settle but he did not turn up. Further, plaintiff served the defendant with a demand note for outstanding service levy but did not respond. Under Order XXXV Rule 2, I hereby pronounce judgment in favour of the plaintiffs and against the Defendant for the sum of Tsh. 65,199, 221.28 together with interest rate of 12% of the decretal sum from the judgement date till final payment. No order as to costs. Judgement delivered in chamber in the presence of Mr. Abdallah Makulo and Stamili Ndalo, both State

Attorneys for plaintiffs and in the absence of defendant as he did not show interest to defend the suit. M. L. KOMBA Judge 22nd July 2024 Page 3 of 3

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CASE PAGE	https://chat.esheria.ai/case-law/tanzania/bunda-town-council-v-ds-traders-company-ltd-servicelevy-tanzlii-2024

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