

TANZANIA / JUDGMENT

20080724 TZHC Dar es Salaam

COURT
TZHCDECIDED
24 July 2008

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1 IN THE HIGH COURT OF TANZANIA AT DAR ES SALAAM CIVIL CASE NO 142 OF 1998 OTIENO OLUNG'A IGOGO APPLICANT /OBJECTOR VERSUS ,...

1. THE REGISTERED TRUSTEES OF} THE SISTER OF OUR LADY OF · DECREE HOLDERS
KILIMANJARO
2. JOHN DANIEL KERENGE }
3. THERESIA J. KERENGE .. JUDGMENT DEBTORS 4 . .• E.R. MWAKASALA COURT
BROKER ·,C

RULING

Shangwa, J. On 29 th November, 2005, Mr. Mbuya for the Decree - holders requested for the order of proclamation of sale of the judgment debtors properties which had been attached at the instance of the Decree - holders the Registered Trustees of Sisters of our Lady Kilimanjaro. One of those properties is House No. 309 located at Jangwani Beach in Dar es Salaam. 2 Mr. Mbuya's request was granted. On 19th January, 2006, Mr.. Living, Advocate filed an application on behalf of one Otieno Olung'a Igogo for an order that the above mentioned house should be removed from the list of attached properties proclaimed for sale on grounds that it did not belong to the judgment deobtors John Daniel Kerenge and his wife Theresia J. Kerenge. That application was supported by affidavit of the Applicant Otieno Olung'a Igogo . . On 24/2/2006, I started hearing this application in which the Applicant Otieno Olung'a Igogo testified as objector. Apart from his own testimony, the Applicant/objector called three other persons to support his objection namely Cornel A.N. Meseyeck, Anizeti Kiwale and Robert Ngassa. Apparently, Mr. Mbuya for the Decree - holders did not call any person during the reply to the Applicant's application be it the judgment debtors themselves or any other person to contradict the Applicant's objection to the sale of House 3 No. 309 at Jangwani Beach, Dar es Salaam which was attached for sale in satisfaction of the decree in this case. I do interpret his omission to do so as having consented to the Applicant's objection against the attachment and sale of the said house. Moreover, sufficient evidence has been adduced by the Applicant to show that the said house do not belong to the judgment debtors but that it belongs to him. In his testimony, the Applicant stated that he bought it at the public auction conducted by Yono Auction Mart in 2002. The said auction was conducted by Yono Auction Mart on behalf of CRDB. By that time, the House in issue was in the name of the

1st judgment debtor John Daniel Kerenge who had mortgaged it to CRDB in consideration of a loan which he failed to discharge. Later on, the title deed in respect of that house was registered in the name of the Applicant 4 Otieno Olung'a Igogo. It is obvious therefore that the house in issue belongs to Otieno Olung'a Igogo. For these reason;; I hereby grant the Applicant's application and order that House No. 309 at Jangwani Beach, Dar es Salaam be removed from the list of the J properties which were ordered to be attached and proclaimed for sale in satisfaction of the decree in this case. A. Shangwa JUDGE 24/7/2008

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