

TANZANIA / JUDGMENT

EAST AFRICAN DEVELOPMENT BANK VS HOOD TRANSPORT COMPANY LTD COMM CASE NO

COURT
TANZLIIDECIDED
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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA COMMERCIAL DIVISION AT
PAR ES SALAAM (Arising from Execution Proceedings of the Decree in Commercial Case No. 132
of 2016) EAST AFRICAN DEVELOPMENT BANK..... DECREE HOLDER VERSUS HOOD
TRANSPORT COMPANY LIMITED..... JUDGMENT DEBTOR

RULING

Date of Last Order:22/11/2024 Date of Ruling: 13/12/2024 MKEHA, J: By way of an affidavit affirmed by Mr. Feisal Mohamed Hood, and the arguments by Mr. Elinas Kitua learned advocate, the judgment debtor has moved the court to refrain from issuing execution orders in favour of the decree holder. The reasons offered by the judgment debtor were that, there was an application for review of the decree sought to be executed which was still pending and that, some of the properties listed for attachment were not put as securities. There was also an argument that, some of the properties were being co-owned by the judgment debtor and other persons not parties to the present case. According to Mr. Simon Mnyele learned advocate for the decree holder, the judgment debtor had not obtained stay order from the higher court and that, provided the listed properties belonged to the judgment debtor, they could still be attached as the decree remained unsatisfied. The only issue for determination is whether the judgment debtor has succeeded showing cause why execution orders should not be issued. It is trite that, to succeed halting the execution process the judgment debtor has to produce evidence of having satisfied the decree, else, he has to seek and obtain a stay order from the higher court. See: CRDB PLC VS. FINN PETERSEN AND OTHERS, CIVIL APPLICATION NO. 367 OF 2017, CAT, AT DSM. The judgment debtor in the present case did not produce evidence of having satisfied the decree. Neither did he manage to obtain a stay order from the Court of Appeal of Tanzania. The fact that there are other persons having interest in the properties listed for attachment is not something expected to be brought on record by the judgment debtor at the stage of showing cause as the law gives right to whoever having interest in the attached property to file objection proceedings at opportune moment. Therefore, the judgment debtor cannot evade attachment of her property because of interest held by other persons in the property proposed to be attached. 2 | Page For

the foregoing reasoning, I hold that, the judgment debtor has not succeeded in showing cause why execution orders should not be granted. I consequently grant the application. Let a prohibitory order be issued against the immovable property listed in the application for execution. Further, attachment orders be issued in respect of all movable properties (vehicles) listed in the application for execution. Valuation of the attached properties be conducted and reports be filed before the executing court before issuance of orders for Proclamation of Sale. It is so held. DATED at DAR ES SALAAM this 13th day of DECEMBER 2024. COURT: Ruling is delivered in the presence of the parties' advocates. JUDGE 13/12/2024 3 | Page

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