

TANZANIA / JUDGMENT

GILBERT KINYAHA SCANNED

COURT
TANZLIIDECIDED
7 March 2025

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA LAND DIVISION AT DAR ES
SALAAM LAND CASE NO 3212 OF 2025 GILBERT

KINYAHA..... 1st PLAINTIFF RAHEL ADAM
MWILONGO..... 2nd PLAINTIFF SALMA RAMADHAN
SEMWANZA..... 3rd PLAINTIFF UPENDO MODESTUS
SANGA..... 4th PLAINTIFF HABIBA K.
MACHEMBE..... 5th PLAINTIFF ELIZABERTH
MACHANGE..... 6th PLAINTIFF GLORIA ADRES
KIMARO..... 7th PLAINTIFF MWANTUMU H.
MRUMA..... 8th PLAINTIFF ENZI ISSA
RAMADHANI..... 9th PLAINTIFF HUSEEIN FADHILI
MSOFE..... 10th PLAINTIFF THERESIA M.
NJAU..... 11th PLAINTIFF GRACE FURAHA
NKYA..... 12th PLAINTIFF JOSEPH F.
SHIRIMA..... 13th PLAINTIFF MUSSA YAHAYA
HASSAI..... 14th PLAINTIFF VERSUS KIBAHA TOWN
COUNCIL..... 1st DEFENDANT THE ATTORNEY
GENERAL..... 2nd DEFENDANT MICHAEL
LYIMO..... 3rd DEFENDANT ANOCIATHA FAUSTINE
CHUWA..... 4th DEFENDANT AYUBU YASSINI
SEBABILI..... 5th DEFENDANT OLIVANUS PAUL
THOMAS..... 6th DEFENDANT 1

RULING

Date of last Order: 7/3/2025 Date of Ruling: 7/3/2025 LALTAIKA, J, The above-named Plaintiffs
instituted this suit for Judgment and Decree against the Defendants as follows:

- (a) An order that the Plaintiffs are the lawful owners of unsurveyed area measuring 18 acres later surveyed and named as Plots Number 499,656,654, Block "F" and 174 Block "G", 150, 665,1481,411,435 Block "F" and 68,69 Block "G", 422,497, block "F", 15,16,17 block "H" 120 block "F" and 282 "G" Kidimu Area respectively (b) An order that the demolition of the Plaintiffs' buildings done by the 1st defendant is null and void ab initio.

- (c) That an order for payment of Tsh 370,480,000,00/- as specific damages resulted from destruction/demolition of the plaintiffs' buildings in the premise. (d)An Order for payment of general damages to the tune ofTShs. 100,000,000.00 (say Tanzanian Shillings One Hundred Million only).
- (e) An order for payment of interest on the decretal sum at the rate of 30% monthly from the date ofJudgment to full settlement.
- (f) Costs be provided for.
- (g) Any other relief deemed proper by the Court. When the suit was called for mention today 7/3/2025, Mr. Idd Msawanga, learned Advocate, appeared for the Plaintiffs. None of the Defendants and or/their Counsel entered appearance. Mr. Msawanga submitted that the suit was coming up for mention. He explained that he had not yet served the rival party because the suit had been erroneously assigned to the Deputy Registrar. He further stated that 2 due to a change in the law, which now required them to join the Registrar of Title, he prayed to withdraw the suit with leave to refile it in accordance with Order XXIII Rule 1 of the Civil Procedure Code Cap 33 RE 2019. He also prayed that an order for costs is not issued. I have duly considered the prayer by Mr. Msawanga. The application is made under Order XXIII Rule 1 of the Civil Procedure Code (Supra), which provides for withdrawal of suits. The Plaintiffs have demonstrated that the withdrawal is necessitated by legal developments that require an indispensable party, the Registrar of Title, to be joined in the proceedings. This Court is satisfied that the request is made in good faith and serves the overriding objective of facilitating just, expeditious, and effective adjudication of disputes. As for costs, it is settled law that costs ordinarily follow the event unless special circumstances dictate otherwise. In the present matter, since the Defendants have neither entered an appearance nor taken any step in defending the suit, they have not incurred costs that would warrant a compensatory order. Moreover, denying costs aligns with the principle of fairness and encourages responsible litigation where errors in procedure can be promptly corrected without undue hardship to any party. 3 In the upshot, the suit is hereby marked as withdrawn with leave to refile. No order as to costs. It is so ordered^ . LA LTAI KA JUDGE 07.03.2025 Court: Ruling delivered in Court Chambers this 7th day of March 2025 in the presence of Mr, Idd Msawanga, learned Advocate, Counsel for the Plaintiffs and in the absence of the Defendants and/or their Counsel. 4

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CASE PAGE <https://chat.esheria.ai/case-law/tanzania/gilbert-kinyaha-v-kibaha-town-council-withdrawalofsuit-tanzlii-2025>

Prepared on 13 October 2026 · Esheria