

TANZANIA / JUDGMENT

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28 February 2025

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IN THE HIGH COURT OF UNITED REPUBLIC OF TANZANIA LAND DIVISION AT DAR ES SALAAM
MISC. LAND APPLICATION NO. 3313 OF 2025 (Originating from Land Case No. 3188 of 2025)
JOSEPH CHILEY MAYENJE..... 1st APPLICANT SABRINA
PAUL KYARA..... 2nd APPLICANT SILVESTER ADAM
KYANDO 3rd APPLICANT VERSUS ABRAHAMU GODWIN
MSYETE RESPONDENT

RULING

Date of last Order: 24/2/2025 Date of Ruling: 28/2/2025 LALTAIKA, J. The applicants herein JOSEPH CHILEY MAYENJE, SABRINA PAUL KYARA and SILVESTER ADAM KYANDO (hereinafter referred to as the 1st, 2nd and 3rd Applicants or simply "applicants") have moved this Court under Order XXXVII Rule 1(a) and 2(1) and sections 68(c) and (e) as well as section 95 of the Civil Procedure Code Cap 33 R.E. 2019 seeking for the following order: That this Honourable Court invoke its inherent powers to issue a temporary injunction, to restrain the Respondent, its members and officers, agents and assignees and any person whomsoever, from continuing to construct any structure or building on the disputed land that can be identified as Plot no P41560 and Plot no P41555 and Unsurveyed land with a size of 2,000 square meters adjacent to Plot no P41560 and Plot no P41555 both located at Mpiji Mago, Ubungo Municipality, Dar es Salaam pending hearing and determination of the main suit no 3188 of 2025 before this Court When the application was called for hearing Messrs. Benson Kuboja and Shundi Mrutu, learned Advocates appeared for the Applicants and the Respondent respectively. Mr. Kuboja stated that the matter had been filed under a certificate of urgency due to ongoing construction. He therefore prayed that the status quo be maintained pending the hearing of the application, which would effectively bar the Respondents from continuing with the construction. Referring to paragraph 3 of the affidavit and annexures marked AA4, he asserted that there was ongoing construction in the disputed area. In response, Mr. Mrutu confirmed that he had been served with the affidavit and requested time to file their counter-affidavit. Regarding the issue of maintaining the status quo, he contended that no construction was ongoing and clarified that there was no permanent structure being built, as the construction had already been completed. He further asserted that the repairs were carried out by the lawful, owner of the suit premises. 2 It appears that for reasons known best to him, Mr. Mrutu lost interest in objecting the Application for temporary injunction and instead chose to wait for the Main Case. I take this opportunity to commend

Counsel for striving to serve this court's time. I hope that the same spirit shall be exhibited in the main case which is pending in this Court. Without further ado, I proceed to consider the merits of the application as hereunder. In our jurisdiction, the legal framework for temporary injunctions is primarily governed by the Civil Procedure Code (Supra), specifically under Order XXXVII. It is a court order aimed at maintaining the status quo between parties involved in a dispute until, the court reaches a final decision. The main goal of a temporary injunction in our jurisdiction as it is, I believe in many if not most other legal systems around the world, is to prevent irreparable harm, damage, or injustice that could occur if one party is allowed to act in a way that affects the subject matter of the dispute before the court has had a chance to decide on the matter. A detailed examination of the requirements for granting a temporary injunction as laid down in several cases is irrelevant in the present application because the Respondent has not objected the same. 3 In the upshot, the Application for a temporary injunction pending final determination of Land Case Number no 3188 of 2025 pending in this Court is hereby granted. I make no orders for cost at this stage. It is so ordered E.I. LA LTAI KA JUDGE 28.02.2025 Court: Ruling delivered in Court Chambers this 28th day of February 2025 in the absence of the parties and or/their Counsel 4

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CASE PAGE	https://chat.esheria.ai/case-law/tanzania/joseph-chiley-mayenje-v-abrahamu-godwin-msyete-temporaryinjunction-tanzlii-2025

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