

TANZANIA / JUDGMENT

yusuf b mjungu another vs kiuta 1998 ltd another 2003 tzhc 46 13 february 2003

COURT
TZHCDECIDED
13 February 2003

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1 IN THE HIGH COURT OF TANZANIA AT DAR ES SALAAM MISC. CIVIL CAUSE NO. 62 OF 2007
MR. YUSUF B. MJUNGU 1st APPLICANT MR. GEORGE MPAPASINGO2nd
APPLICANT VERSUS KIUTA (1998) LIMITED1st RESPONDENT NATIONA PRINTING
COMPANY LTD.... 2nd RESPONDNT

RULING

Shangwa, J. This application is two-fold. The first part of this application is for an ex-parte order of stay of execution of the eviction Order issued by Mwangesi, PRM against the Applicants on 25th May, 2006 in Miscellaneous Civil Cause No. 8 of 2005 at Kisutu. The second part is for extension of time within which to file an application for revision of various orders issued by the Court of the Resident Magistrate at Kisutu in Miscellaneous Civil Cause No. 8 of 2005 and to call for the said record for the purposes of revising the aforesaid orders. This application was filed six years or so ago that is on 3rd May, 2007. It is supported by affidavit of the late Julius I. F. Ndyanabo. The applicants are represented by Mr. Ogunde and the Respondents are represented by Mrs. Mulebya. From the trial Court's ruling which was annexed to the chamber summons, it appears to me that the eviction order issued by the Principal Resident Magistrate against the Applicants was vacated by the trial court, Kiwanga SRM on 21st March, 2005 when she ordered as follows and I quote: 3 “The order o f 16th March, 2005 requiring the removal o f the respondents to be done forcefully under the supervision o f OCD Temeke is hereby deleted. The court is now ordering the Respondents to hand over the office they were occupying and other properties o f the applicant to the officers appointed to take over their offices under acting capacities and the execution to be done by the court bailiff ” The applicants who were the Respondents before the trial court have already handed over the offices they were occupying. Thus, there is nothing to be determined in the first part of this application. At any rate, this court was informed by Mrs. Mulebya for the Respondents that the 1st Applicant namely Yusufu B. Mjungu has already retired from office and that the 2nd Applicant namely George Mpapasingo who used to be his personal Assistant is no longer personal assistant to him. Therefore, there is no order of execution issued by the lower court worthy of stay by this court. The second part of the application is worthy of consideration as it seeks for extension of time within which to file an application for the revision of various orders made by the trial court in Miscellaneous Civil Cause No. 8 of 2005 at Kisutu. The

reason why they did not file an application for revision of the trial court's orders within time is given at page 3 paragraph 2 of the applicants' written submissions. First, that when they became aware of the trial court's orders of 16th March, 2005 and 21st March, 2005 they filed an application for review on 23rd March, 2005 which was dismissed on 27th April, 2005. Second, that they filed an application for revision of the 5 orders made in Miscellaneous Civil Cause No. 8 of 2005 which was struck out by this court for being incompetent. In my opinion, the above mentioned reasons for failure by the Applicants to file an application for revision of the orders of the Court of the Resident Magistrate at Kisumu made in Miscellaneous Civil Cause No. 8 of 2005 constitute sufficient cause. These reasons do show that on becoming aware of the orders of the said court, they did not sit idle. Thus, I extend time for them to file an application for revision of the orders of the said court in Miscellaneous Civil Cause No. 8 of 2005. The application for revision should be filed within 14 days from today. The said court's record/case file will be called after filing the application for revision. It is so ordered. ,v v ^ 6 lb « Ai Shangwa. J ii J t . ' & f . J? I .T im n ir .
” /13/12/2003 Delivered in open Court this 13th day of December, 2013 in the presence of Mr. Koroso for Mr. Ogunde for Applicants and the Respondents appearing in person. /ft? -J ^ y z A h ;“A. Shangwa. J i £% . « « JUDGE v; . J 13/ 12/2003

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