TANZANIA / JUDGMENT

petrolube tanzania ltd vs caspian limited 2022 tzhccomd 171 17 june 2022

COURT
TZHCCOMD

DECIDED
17 June 2022

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IN THE HIGH COURT OF TANZANIA (COMMERCIAL DIVISION) AT DAR ES SALAAM COMMERCIAL CASE NO. 42 OF 2021 PETROLUBE TANZANIA LTD..... PLAINTIFF VERSUS CASPIAN LIMITED..... DEFENDANT Last order: 15th June, 2021 Judgment: 17th June, 2021 CONSENT JUDGEMENT \ NANGELA, J. / This consent judgment arises from a Plaint filed by the Plaintiff on 13th April' 2022 seeking for judgment and decree of the Court against the Defendant as here below: \ ' —1. Paymentxpf zthe sum of US$ ^553,270.90" "being an outstanding „ ■ balance for products supplied. h X ■ 2? s Payment of commercial interest at ' the rate of 10% from date of X ’i ' / / institution of this suit to the date of

judgment.

3. Payment of decretal interest at the rate of 7% per annum from the date of judgment to that date of full payment.
4. Payment of general damages to be assessed by the Court
5. Cost of the suit be borne by the Defendant and; Page 1 of 4
6. Any other relief as this Court deems fit and just to grant. When the parties appeared for orders of this Court on 17th May 2022, the Plaintiff enjoyed the services of Mr Abdon Rwegasira, learned counsel, while Mr Jeremiah Mtobesya, a learned counsel as well, appeared for the Defendant. Mr Mtobesya informed this Court that, the Defendant was duly served with the Plaint but is interested to have this matter resolved amicably. He prayed for time within which the parties may be allowed to engage and prepare a Deed of;Settlement The prayers by Mr Mtobesya were not opposed by Mr Rwegasira and this Court granted the parties time to engage. On the 16th. day of June 2022, the parties managed to file a Deed of Settlement in this Court, and, on the 17thz Jun'e ^022, they-appeared before this Court requesting the Court to record their Deed of Settlement (<■ as constituting, its own judgment and decree. In the case

x. \\ 1 of Karatta Ernest D.O and 6 Others vs. The ' - f/ Attorney General, Civil Appeal No.73 of 2014 (Unreported) the Court of Appeal emphasized that, it must be made clear that the basis of a Deed of Settlement is privy to the parties. It means, therefore, that the Court must examine the deed of settlement as well to be satisfied that it is in conformity with the law. In particular, and, as once stated in the case of Jaffery Ind.Saini Ltd vs. M/s Beinjing Construction Page 2 of 4 Engineering Group Ltd, Commercial Case No.38 of 2021 (unreported) (citing the case of Farisai Nando vs. Godwills Masimirembwa , High Court of Zimbabwe Mwayera J, Harare, 10 November, 2016, 23 February 2017), the Court should be satisfied: "Firstly,....that both parties to the agreement have freely and voluntarily concluded the agreement. Secondly, that there is meeting of minds of the contracting parties; in other words, that, the.parties'are ad idem with regards the terms of the ■Deed\\ . z ■ of Settlement. Thirdly ... whether orznot \\ \ " ’ "■-•'"X the terms of the Deed of Settlement are capable of enforrementwith'out'Tecour'se to further litigation. ..? These factors' in my view fall for"consideration cumulatively." \ \ \ /'X \ X> Having examined the Deed of Settlement filed in this Court by the parties, I am satisfied that the same meets ,the lawfulness requirements of an enforceable Deed- and falls within Order XXIII rule 3 of the Civil Procedure Code, Cap.33 R.E 2019. This means that the suit has been adjusted wholly by the Deed of Settlement filed in this Court on 16th of June 2022. With that in mind, this Court hereby proceeds and records the Deed of Settlement and marks this suit as having been "settled at the instance of the Parties and on the basis of terms contained in their duly signed Deed of Settlement, which shall constitute the Decree of this Court". Page 3 of 4 It is so ordered. DATED at DAR-ES-SALAAM ON THIS 17th DAY OF JUNE 2021 X- THe Page 4 of 4

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CASE PAGE	https://chat.esheria.ai/case-law/tanzania/petrolube-tanzania-ltd-v-caspian-limited-deedofsettlement-tzhccomd-2022

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