

TANZANIA / JUDGMENT

CHARLES DAUDI MACHEO

COURT
TANZLIIDECIDED
22 July 2024

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IN THE HIGH COURT OF TANZANIA DODOMA SUB - REGISTRY AT DODOMA LAND CASE NO. 33
OF 2023 CHARLES DAUDI MACHEO & 9 OTHERS..... PLAINTIFFS VERSUS

1. DODOMA CITY COUNCIL..... 1st DEFENDANT
2. THE ATTORNEY GENERAL.....2nd DEFENDANT

RULING

22.07.2024 HASSAN, J: The Plaintiffs herein filed Land Case No. 33 of 2023 against the Defendants in this court. Plaint and summons were duly served to the defendants. However, in response to the plaint lodged thereof, the defendants raised two points of preliminary objections to be determined first thus:

1. That, the suit is bad in law for contravening Order VII rule 3 of the Civil Procedure Code. [Cap 33.R.E. 2019]. 1
2. That the suit is incompetent for contravening section 6 (2) of the Government Proceedings Act, [Cap. 5 R.E. 2019]. In essence, the defendants moved the court to struck out the suit with costs for being incompetently filed. At the hearing of the preliminary objections, the plaintiffs' counsel begged the court to step up first to submit. In his submission, the plaintiffs' counsel Mr. Fredy Kalonga readily conceded to all preliminary objections raised by the defendants. Consequently, he prayed the court to struck out the suit without costs. Nodding to demonstrate acceptance, learned State Attorney Ms. Kondo, also sanctioned the prayers from the plaintiffs' counsel that the suit be struck out without costs. In my considered view, having gone through the law, it is apparent that the opening of this suit has violated Order VII rule 3 of the CPC which provides: "Where the subject matter of the suit is immovable property, the plaint shall contain a description of the property sufficient to identify it and, in case such property can be identified by a title number under the Land Registration Act, the plaint shall specify such title number." Truly, the suit is about land dispute which is an immovable property, and thus descriptions of the land sufficient to identify it and, in case it can be identified by a title number under the Land Registration Act, its title number were not included in the plaint in violation of the aforementioned provision of law. Similarly, on the point that the suit has violated section 6 (2) of the Government

Proceedings Act, [Cap. 5 R.E. 2019]. All the same, there was no proper service of 90 days' notice to sue the government as stipulated under such section of law. In fact, the Solicitor General has not been served at all, and the Attorney General together with the City Council of Dodoma were improperly served. For clarity, section 6 (2) of the GPA provides: "AHSuits against the Government shall, after the expiry of the notice be brought against the Attorney-General, and a copy of the plaint shall be served upon the Solicitor General, Government Ministry, Department or Officer that is alleged to have committed the civil wrong on which the civil suit is based." As already observed, the plaintiffs in the present matter filed the purported suit in violation of the laws. The defects found are fatal and have rendered the present suit incompetent. That being the case, the suit is consequently hereby struck out. No order as to costs. Ordered accordingly. DATED at DODOMA this 22nd day of July, 2024. This ruling delivered this 22nd day of July, 2024 in the presence of the

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