

TANZANIA / JUDGMENT

RASIA HARUBU SCANNED

COURT
TANZLIIDECIDED
7 March 2025

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IN THE HIGH COURT OF UNITED REPUBLIC OF TANZANIA LAND DIVISION AT DAR ES SALAAM
LAND CASE NO 5534 OF 2024 RASIA HARUBU SALUM.....PLAINTIFF
VERSUS HALIMA MSHINDO DEFENDANT

RULING

Date of last Order: 07/03/2025 Date of Ruling: 07/03/2025 LALTAIKA, J. This ruling follows the Court's own motion regarding the status of the suit instituted by the Plaintiff, RASIA HARUBU SALUM, against the Defendants. The suit was scheduled for hearing today, the 7th of March 2025. However, neither the Plaintiff nor the Defendants entered an appearance when the matter was called for hearing. Apparently, the Plaintiff had initiated this suit seeking various reliefs, including a declaration that the late Harubu Salum Masamala was the rightful owner of a farm measuring 37 acres in Magambani Mitimangi, Kaole Village, Bagamoyo District. Additionally, the Plaintiff sought orders declaring 1 the Defendants as trespassers, nullifying the sale of the suit land, ordering vacant possession, demolition of structures, payment of compensation, an injunction against further developments, general damages, costs, and any other reliefs the Court may deem fit. My quick perusal through the court file indicate that the Plaintiff never entered appearance. It goes without saying therefore that she has failed to diligently prosecute the matter. It is trite law that a party who initiates legal proceedings must prosecute them with diligence. The Court is empowered to dismiss a suit where a Plaintiff fails to appear or prosecute the case. This principle is enshrined under Order IX Rule 8 of the Civil Procedure Code [Cap. 33 R.E. 2019], which provides: "Where the plaintiff does not appear when the suit is called on for hearing, the court shall make an order that the suit be dismissed unless the defendant admits the claim or part thereof in which case the court shall pass a decree against the defendant upon such admission, and where part only of the claim has been admitted, shall dismiss the suit so far as it relates to the remainder," 2 Moreover, courts have consistently underscored the need for litigants to be vigilant in pursuing their claims. See TANZANIA KNITWEAR LTD V SHAMSU ESMAIL [1989] TLR 48. Similarly, in NGONI-MATENGO COOPERATIVE MARKETING UNION LTD V ALIMAHOMED OSMAN

[1959] EA 577, the erstwhile Court of Appeal for Eastern Africa emphasized that it is the duty of a Plaintiff to take necessary steps to advance their case; otherwise, dismissal follows as a necessary consequence. In the present case, the Plaintiff's failure to appear for the

scheduled hearing, without offering any justification, indicates a lack of interest in prosecuting the matter. No explanation or notice was tendered to the Court regarding her absence. The Court cannot indefinitely retain cases on its docket where a party demonstrates clear reluctance to pursue their claims. The absence of both parties, particularly the Plaintiff who bears the burden of prosecution, renders it impracticable for the Court to proceed with the hearing. In the circumstances, and in line with the applicable legal principles, the suit is liable for dismissal for want of prosecution under Order IX Rule 8 of the Civil Procedure Code [Cap. 33 R.E. 2019]. 3 In the upshot, the suit is hereby dismissed for want of prosecution. I make no orders as to costs. It is so ordered. Court; Ruling delivered in Court Chambers this 7th day of March 2025 in the absence of parties and/or their Counsel. 4

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