

TANZANIA / JUDGMENT

ayoub mtafya liquidator 2022

tzhccomd 290 16 september 2022

COURT
TZHCCOMDDECIDED
16 September 2022

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF
TANZANIA
(COMMERCIAL DIVISION)
AT DAR ES SALAAM
MISC. COMMERCIAL APPL. NO. 112 OF 2022
(Arising from Misc. Civil Cause No.192 of 2018)
IN THE MATTER OF COMPANIES ACT, CAP.212 [R.E 2002]
IN THE MATTER OF COMPANIES (INSOLVENCY) RULES, 2005
AND
IN THE MATTER OF APPLICATION FOR WINDING UP OF
TAN CRUSH (T) LTD
AND
IN THE MATTER OF AN APPLICATION FOR DISLAIMING OF
MINING LINCENSE No. 547/2015
AND
IN THE MATTER OF AN APPLICATION FOR DISSOLUTION OF
TAN CRUSH (T) LIMITED

BY: AYOUB MTAFYA (LIQUIDATOR)..... APPLICANT
Date of last order: 25/07/2022
Date of Ruling: 16/09/2022

RULING

NANGELA, J. This ruling is in respect of a winding up petition filled in this Court, under Section 329 and 373 of the Companies Act, Page 1 of 6 Cap 212, and Rule 416 of the Companies (Insolvency) Rules, 225. Perhaps I should set out its background facts. On the 14 th December 2021, this Court, (Mwandambo, J) (as he then was) appointed Mr Ayoub Mtafya a liquidator of the affairs of Tan Crush (T) Ltd in the Misc. Civil Cause No.192 of 2018. Following the service of the Order to the Liquidator, the Liquidator carried out his duties as per the requirements of the

Companies Act, Cap.212 R.E 2002 and, subsequently, on 7 th June 2022, he lodged his report before this Court, regarding the progress of the liquidation process. However, the only remaining property belonging to the Company could not be advantageously disposed of by way of sale or even be transferred for purposes of realizing money from such a process to pay the Creditors. In view of that fact, the Applicant has applied before this Court seeking for the following orders:

1. That, this Honourable Court may be pleased to make an order disclaiming the Mining License Page 2 of 6 Number 547/2015 which is on the landed property located at Pongwe Msungura Village opposite to Pongwe Msungura Dispensary which is held by TAN CRUSH LIMITED.
2. That, this Honourable Court may be pleased to make an order that the Company be dissolved from the date of the order as all the affairs of the Company has been wound up.
3. Any order (s) that the Honourable Court may deem fit to grant. On 25th July, 2022 this petition was called for mention. On the material date, Mr. Ayoub Mtafya, learned Advocate, appeared for the Petitioner. Relying on his affidavit and report filed in this Court, he reiterated the prayers which he is seeking from this Court and, contended that, the only remaining property in question, i.e., the Mining License Number 547/2015, which is on the landed property located at Pongwe Page 3 of 6 Msungura Village opposite to Pongwe Msungura Dispensary which is held by Tan Crush Limited, is not saleable or transferrable. In view of that, Mr Mtafya submitted that, since the affairs of the company were wound-up and notice to all creditors was issued, the Applicant, as the liquidator, cannot pay dividend agreed in the meeting dated 30 th March, 2022. He prayed, therefore, that, this Court be pleased to grant leave to disclaim the property and issue an order under Section 329 of the Company Act, Cap 212, to dissolve the Company. I have considered the prayers in the chamber summons and gone through the affidavit and its annexed report. In view of the fact that the only remaining property of Tan Crush (T) Ltd is neither saleable nor transferrable, I find that there are cogent reasons as to why this Court should accede to the prayers sought by the Applicant. In the upshot of all that, this Court settles for the following orders:
 1. That, an Order is hereby ISSUED by the Court, Page 4 of 6 disclaiming the Mining License Number 547/2015, which is on the landed property located at Pongwe Msungura Village opposite to Pongwe Msungura Dispensary, held by TAN CRUSH LIMITED.
 2. That, the Liquidator is hereby DIRECTED TO, within 14 days, SURRENDER the respective Mining licence to the respective Ministry responsible for Mining.
 3. That, in line with section 329 of the Companies Act Cap.212, R.E 2002, this Court does make an order and direct that the company in the name of TAN CRUSH (T) LTD be, and is hereby, DISSOLVED from the date of this Order.

4. That, in line with the above No.2 Order and Directive of this Court, the Liquidator is hereby Page 5 of 6 DIRECTED to submit to the Registrar of Companies a copy of this order within fourteen days from the date of this Order for the latter's necessary steps. It is so ordered.
DATED AT DAR ES SALAAM ON THIS 16TH DAY OF SEPTEMBER,
2022 DEO JOHN NANGELA JUDGE Page 6 of 6

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Prepared on 13 October 2026 · Esheria