

**IN THE HIGH COURT OF TANZANIA**

**(LAND DIVISION)**

**AT DAR ES SALAAM**

**LAND CASE NO. 01 OF 2021**

**DILOLE CO-OPERATIVE SOCIETY.....PLAINTIFF**

**VERSUS**

**KINONDONI MUNICIPAL COUNCIL.....1<sup>ST</sup> DEFENDANT**

**THE REGISTERED TRUSTEES OF**

**CHAMA CHA MAPINDUZI (CCM).....2<sup>ND</sup> DEFENDANT**

Date of Last Order:21/10/2021

Date of Ruling:15/11/2021

**RULING**

**T. MWENEGOHA, J**

The plaintiff has filed this suit praying for judgment and decree against the defendants for a declaration order that he is legal occupier of suit property located at Plot No. 131 D at Magomeni sokoni, Kinondoni district and an order for damages caused by the defendant's act of defying the lawful order to be paid by defendants amounting to 20 Million shillings.

Upon being served with the plaint, the 1<sup>st</sup> defendant raised a notice on preliminary objection that there is non-joinder of a necessary party which contravene Section 6(3) and (4) of the Government Proceedings Act as amended by the Written Laws (Miscellaneous Amendments) Act, Act No. 1 of 2020 (herein referred Act No. 1 of 2020).

The preliminary objection was disposed by way of written submission where the plaintiff had the services of Mr. Twaha Issa Taslima while the 1<sup>st</sup> defendant enjoyed the services of Ms. Tausi Kheri.

The submission by Ms Kheri is that the requirement under Section 25(a) and 33(1) of Act No. 1 of 2020 mandate that any party who is suing a local government to join the Attorney General as a party to a suit. The cited proviso reads as follows;

*"All suits against the government shall, upon the expiry of the notice period, be brought against the government, ministry, government department, local government authority, executive agency, public corporation, parasternal organization or public company that is alleged to have committed the civil wrong on which the civil suit is based and the **Attorney General shall be joined as a necessary party**".* Emphasis provided.

She cited the case of Wambura Maswe Karera and 5 Others vs. Village Council of Mori and District Executive Officer of Rorya District, Civil Case No. 20 of 2020, High Court of Tanzania at Musoma (Unreported) and the case of Abdallah Omari Ndogondogo and 6 Others vs. Soap and Allied Industry and 2 Others, Land Case No. 78 of 2020, HCT Land Division at DSM (Unreported) to concretize her argument. In that light she submitted that this case is incompetent and hence should be struck out with costs.

In reply, Mr Taslima conceded to the preliminary objection as raised by his counterpart. He prayed for this suit to be struck out with no order as to costs.

This is one of those cases which I will not dwell much to analyse as the plaintiff has conceded to the preliminary objection as raised by the 1<sup>st</sup> defendant. Indeed it is the requirement of law as amended in Act No. 1 of 2020 that the Attorney General should be joined in all suits brought before

the government or its agencies. I therefore struck out this suit. Each party to bear own costs.

It is so ordered.

Dated at Dar es salaam this **15<sup>th</sup>** day of **November, 2021.**



  
**T. N. MWENEGOHA**  
**JUDGE**