

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

MUSOMA SUB REGISTRY

AT MUSOMA

MISC LAND APPLICATION NO 43 OF 2022

(Arising from Land case No 19 of 2022 in the High Court of Musoma)

PENINA MHERE WANGWE	1ST APPLICANTS
MARKO CHACHA GICHERE	2ND APPLICANT
HELENI DANIEL MATAIGA	3RD APPLICANT
EMMANUEL AUGUSTINO WANGWE	4TH APPLICANT
ALEXANDER CHACHA NYANKAIRA	5TH APPLICANT
NYANGIGE NYAMARUNGU MWITA	6TH APPLICANT
JOHN MENYE MWITA	7TH APPLICANT
JASTINE MWITA KIMUNE	8TH APPLICANT
MATIKO BISENDO MARWA	9TH APPLICANT
DAUDI JUMA NYANKAIRA	10TH APPLICANT
ESTER DAUDI NYANKAIRA	11TH APPLICANT
MAKENGE DANIEL MAKENGE	12TH APPLICANT
MATONGO JUMA NYANKAIRA	13TH APPLICANT
KOROSO SASI RAGITA	14TH APPLICANT
ALLY MUYUI CHACHA	15TH APPLICANT
MATAIGA SAMMY DANIEL	16TH APPLICANT
ROBIN MOTENGI MARWA	17TH APPLICANT
BHOKE PETER CHACHA	18TH APPLICANT
AGNES PAULO CHACHA	19TH APPLICANT
MWITA CHACHA MUYUNI	20TH APPLICANT
OTAIGO CHACHA MHIRI	21ST APPLICANT

BEATRICE DANIEL BWANA	22 ND APPLICANT
MARIA JUMA MASEYA	23 RD APPLICANT
SIMON MSETI WANGWE	24 TH APPLICANT
ROBI CHACHA MHIRI	25 TH APPLICANT
MWITA CHACHA KEGOYE	26 TH APPLICANT
DANIEL ELIYA MATIKO	27 TH APPLICANT
PETER MNIKO MWERA	28 TH APPLICANT
WINFRIDA SAMWEL MOTENGI	29 TH APPLICANT
SAMWEL MOTENGI MARWA.....	30 TH APPLICANT
NICODEMAS KITUNKA JOHN	31 ST APPLICANT
GEORGE NYAMOHONO NYAMONGE	32 ND APPLICANT

VERSUS

NORTH MARA GOLD MINE LIMITED RESPONDENT

RULING

This application for *ex parte* interim order is filed by the applicants under section 68 (e) and order XXXVII, Rule 1 (i) (a) (b) and (2) of the Civil Procedure code Cap 33, R. E. 2019.

The applicants have been issued with a seven days’ notice to vacate from their landed properties to pave way for the mining activities by the Respondent to take place.

Upon filing of the application under certificate of urgency on 24th August, 2022, I issued orders that the respondent be dully served and

that the application be set today for hearing. It is good to note that the respondent's counsel has been able to enter appearance to the court timely. Though he was not able to file the counter affidavit, he prayed that let the application be heard and that he will make a short reply pending the application inter-partes, which in fact he did.

I have digested the applicants' joint affidavit, annexures thereof and the submissions done. I have equally digested the concerns raised by Mr. Waziri Mchome, learned counsel for the respondent.

In essence, it is undisputed that the applicants own land in the area of dispute. It is also undisputed that there was valuation process done. The dispute is, what was valued is not what was all paid by the respondent.

The valuation forms (NT2 – NT8) establish that out of the many items valued, others have been fully paid but others not. No any explanation is given for that account. Such unpaid items/properties include existing houses/structures, crops and planted trees.

This contention appears not being disputed by Mr. Mchome but only argued that if these are genuine claims, can be fully compensated upon establishment in the main suit.

In the circumstances, I agree with the applicants' counsel that there are triable issues which if not intervened by the court at the moment, may lead to irreparable loss or breach of peace in the area. Should demolition process be blessed to proceed, it is the applicants who are going to suffer irreparable loss as there will be no evidence for that substantiation and meanwhile, some will be rendered homeless.

At the moment, I am satisfied that this application is merited and the sought restraint order is hereby granted pending the hearing and determination of the application inter-partes.

I so order and direct.



F. H. Mahimbali,

Judge

25/08/2022