

IN THE HIGH COURT OF TANZANIA

(COMMERCIAL DIVISION)

AT DAR ES SALAAM

COMMERCIAL CASE NO. 187 OF 2017

ADAMAS CONGLOMERATES LTD **PLAINTIFF**
TAASHI CONSULTING LTD **DEFENDANT**
VERSUS

DEFAULT JUDGMENT

Date of the Last Order: 19/06/2018

Date of the Default Judgment 20/06/2018

SEHEL, J.

The plaintiff herein has instituted a suit against the defendant for the payment of United States Dollars Sixty Six Thousand Two Hundred Thirteen (USD 66,213) being monies outstanding arising from materials and labour charges of an interior design done at the defendant's office premises. The Plaintiff further claims for interest at the rate of 7% on the claimed amount; interest at the bank's rate from the date of the institution of the suit to the date of full

settlement; and costs of the suit. It is alleged in the plaint that the plaintiff and defendant entered into an agreement to design the interior office of the defendant located at A1 Dual Tower, Block A, 4th Floor, Plot No. 3/12, Regent Estate, Bagamoyo Road, Kinondoni Municipality, within the city of Dar es Salaam at the contractual cost of United States Dollars One Hundred Thousand Nineteen Six Hundred Sixty Eight (USD 119,668). It is stated in the plaint that the agreement expressly required the plaintiff to design the interior office within a period of 45 days from the date of the advance payment which was on 21st April, 2016; that the plaintiff started the works on 5th May, 2016 and managed to complete only 90% of the works due to defendant's delayed payments. It is further stated in the plaint that by 27th February, 2017 the outstanding amount owed is USD 66,213. The plaintiff in the plaint complained that a formal demand notice was served upon the defendant but the defendant failed to repay hence the plaintiff filed the present suit.

The defendant was duly served with summons to appear on 25th day of January, 2018. The said summons was received by one

Zukra Ally who is the director of the defendant. The said summons dully notified the defendant that in case of default to enter appearance the suit will proceed and judgment may be entered against it. Despite being served with summons, the defendant defaulted appearance and even failed to file any defence. granted leave, the defendant defaulted to file any defence. Hence the counsel for the plaintiff prayed for default judgment by by filling Form No. 1 for default judgment as required by Rule 22 (1) of the High Court (Commercial Division) Procedure Rules, GN 250 of 2012 (hereinafter referred to as "the Rules").

Rule 22 (1) of the Rules provides:

"Where any party required to file written statement of defence fails to do so within the specified period or where such period has been extended in accordance with sub-rule (2) of Rule 9, within the period of such extension, the Court shall upon proof of service and on application by the plaintiff in Form No. 1 set out in the schedule to these Rules enter judgment in favour of the plaintiff."

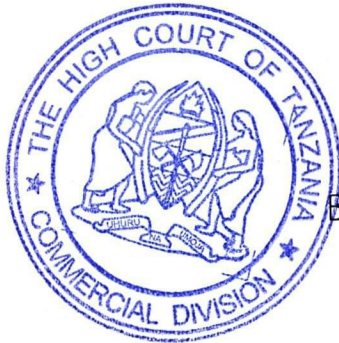
As I said the defendant was duly served with summons. It neither appeared nor filed and defence thereof. Therefore, pursuant to Rule 22 (1) of the Rules the plaintiff is entitled to default judgment and decree against the defendant. Default judgment is hereby entered and the plaintiff is entitled to the following reliefs:

1. The defendant shall pay the Plaintiff the outstanding amount of United States Dollars Sixty Six Thousand Two Hundred Thirteen (USD 66,213) being monies outstanding arising from materials and labour charges of an interior design done at the defendant's office premises;
2. The defendant shall pay the plaintiff interest rate of 7% per annum on USD 66,213 from 27th February, 2017 until the date of judgment;
3. The defendant shall pay the plaintiff interest at Court's rate of 7% per annum on the decretal amount from the date of judgment to the date of full payment; and
4. Costs of the suit.

WHR

In terms of Rule 22 (2) (a) and (b) of the Rules, I further direct that the decree to the present suit shall not be executed unless the decree holder has, within a period of ten (10) days from the date of this judgment, published a copy of the decree in at least two (2) newspapers of wide circulation in the country and after a period of twenty-one (21) days from the date of expiry of the said period of ten (10) days has lapsed. It is so ordered.

Dated at Dar es Salaam this 20th day of June, 2018.



A handwritten signature in blue ink, appearing to read "B.M.A. Sehel".

B.M.A Sehel

JUDGE

20th day of June, 2018