

**IN THE HIGH COURT OF UNITED REPUBLIC
OF THE TANZANIA
(COMMERCIAL DIVISION)
AT DAR-ES-SALAAM
MISC.COMMERCIAL CAUSE NO.29 OF 2021**

IN THE MATTER OF THE COMPANIES ACT, Cap.212
[R.E.2002]

AND

IN THE MATTER OF COMPANIES (INSOLVENCY) RULES
GN NO.43 OF 2005

AND

IN THE MATTER OF PETITION FOR WINDING UP

BETWEEN

RED DOT DISTRIBUTORS LIMITED..... APPLICANT

AND

DARWORTH LIMITED.....RESPONDENT

RULING

Date of Last Order: *02/08/2021*
Date -Judgement: *06/08/2021*

NANGELA, J.;

On the 25th day of May 2021, the Petitioner herein
filed this Petition seeking for the following:

1. That, Darworth Limited be wound
up by the Court as per section 281
of the Companies Act, Cap212 [R.E
2002].
2. That, the Court be pleased to grant
an interim order to safeguard the
Company and the Petitioner

pending granting of a winding up order, including but not limited to the appointment of Mr Nicholas Kahoza as an official receiver and take into custody and control the Company's affairs, books, records and assets; and

3. That, the Court be pleased to grant such others orders as it deems fit.

On 25th day of June 2021, the Respondent filed Notice of Preliminary Objection, raising four preliminary legal issues challenging the competence of this Petition. The matter was scheduled for orders on the 28th day of June 2021.

On that material date, Mr Kahoza Nicholas, learned advocate appeared for the Petitioner while Mr Deogratias Ogunde and Mr Sisty Massawe (learned advocates) appeared for the Respondent. Mr Dickson Majaliwa, learned advocate, appeared in Court, representing the CRDB Bank, and interested party who had filed a notice of appearance under Rule 104 (1) and (2)(a) and (c) of the Companies (Insolvency) Rules, GN. NO. 43 of 2005.

Having appeared before this Court, the learned counsel for the parties prayed to have the preliminary legal issues disposed of by way of written submissions. Their prayer was granted and a schedule of filing was issued. The matter was there after set for mention on 30th July 2021, with a view to ascertain whether the

parties have complied with the orders of the Court and for further subsequent orders.

On the 30th day of July 2021, the matter could not proceed as it was rescheduled to 2nd of August 2021. On the material date, Mr Rico Adolf, learned counsel appeared for the Petitioner while Mr Sisty Massawe appeared for the Respondent.

When he rose to address the Court, Mr Rico informed this Court that, on 30th June 2021, the parties executed a Deed of Settlement which was filed in Court on the 5th of July 2021. He prayed, under Order 23 rule 3 of the Civil Procedure Code, Cap. 33 R.E. 2019, to mark the Petition as having been settled by the compromised by all parties and, that, their Deed of Settlement filed in this Court be adopted as forming the judgement and Decree of the Court. Mr Massawe conceded to the submission made by Mr Rico.

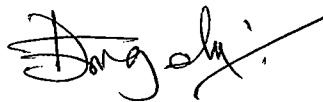
I have examined the Deed of Settlement executed by the parties herein and filed in this Court on the 5th of July 2021. I am satisfied, therefore, that, the Deed of Settlement drawn and executed by both parties herein, sufficiently discharges the claims which were a basis for the orders sought in this Petition for Winding Up of the Respondent Company.

In view of that, this Court proceeds to order and record that:

1. The Deed of Settlement executed by both parties herein on 30th day of June 2021 and filed in this Court on 5th July 2021 does hereby constitute part and parcel of the ruling of this Court and forms the decree of the Court as far as this Petition is concerned.
2. The Petition is thus marked settled at the compromise of the parties.

It is so ordered

DATED at DAR-ES-SALAAM, THIS 6TH AUGUST 2021



**HON. DEO JOHN NANGELA
JUDGE,**