

**IN THE HIGH COURT OF TANZANIA**  
**(COMMERCIAL DIVISION)**  
**AT DAR ES SALAAM**  
**COMMERCIAL CASE NO. 124 OF 2019**

**DIAMOND TRUST BANK (T) LTD.....DECREE HOLDER**

**VERSUS**

**SUNRISE BEACH RESORT LTD.....1<sup>ST</sup> JUDGMENT DEBTOR**

**DILESH KUMAR VITHALDAS BHOVAN**

**SOLANKI .....2<sup>ND</sup> JUDGMENT DEBTOR**

**RAVI VITHALDAS SOLANKI .....3<sup>RD</sup> JUDGMENT DEBTOR**

**ASMINTA VITHALDAS BHOVAN**

**SOLANKI.....4<sup>TH</sup> JUDGMENT DEBTOR**

**YOGESH AMRATLAL KANJI .....5<sup>TH</sup> JUDGMENT DEBTOR**

**RAJEN VITHALDAS BHOVAN**

**SOLANKI.....6<sup>TH</sup> JUDGMENT DEBTOR**

Date of Last Order: 30/09/2021

Date of Ruling: 13/10/2021

**RULING**

**MKEHA, J.**

When the Judgment Debtors were on 30/08/2021 invited to show cause as to why an application for execution filed against them should not be

granted, Ms. Kiangi and Nasri Nassan learned advocates appeared for the 1<sup>st</sup>, 2<sup>nd</sup>, 5<sup>th</sup> and 6<sup>th</sup> Judgment Debtors. Ms. Ruwaida Manji learned advocate appeared for the 3<sup>rd</sup> Judgment Debtor. Mr. Zacharia Daudi learned advocate appeared for the Decree Holder. It was through virtual court.

According to the learned advocates for the 1<sup>st</sup>, 2<sup>nd</sup>, 5<sup>th</sup> and 6<sup>th</sup> Judgment Debtors, there was no dispute that the parties had signed a settlement agreement which turned out to be a decree between the parties. All what they asked was short adjournment which could allow their clients to dispose some plots so as to obtain money for payment.

The learned advocate for the 3<sup>rd</sup> Judgment Debtor submitted that her client had proposed to the Decree Holder on how to settle the remaining balance.

Mr. Zacharia learned advocate submitted for the Decree Holder that the Judgment Debtors had defaulted honouring the payment schedule as agreed in the deed of settlement. Given the said state of affairs, the learned advocate asked for grant of the application.

There is no dispute that the decree against the Judgment Debtor remains unsatisfied since when the same was passed on 24/03/2020.

Apart from asking extension of time for satisfying the decree, the Judgment Debtors have not sought and obtained an order for stay of execution. In the circumstances, the following order is made. The application for execution is granted in the manner prayed in the application dated the 9<sup>th</sup> June, 2021. Let prohibitory orders be issued against the properties listed in the application under Order XXI Rule 53 (1) of the Civil Procedure Code.

It is so ordered.

Dated at DAR ES SALAAM this 13<sup>th</sup> day of October, 2021.



  
**C. P. MKEHA**

**JUDGE**

**13/10/2021**

**Court:** Ruling is delivered in the presence of the parties' advocates.



  
**C. P. MKEHA**

**JUDGE**

**13/10/2021**