

**IN THE HIGH COURT OF TANZANIA
(COMMERCIAL DIVISION)
AT DAR-ES-SALAAM**

MISC.COMMERCIAL CAUSE NO.52 OF 2021

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

AND

IN THE MATTER OF A PETITION BY THE COMPANY
FOR AN ADMINISTRATION ORDER

AND

IN THE MATTER OF CASSAVA STARCH OF TANZANIA
CORPORATION LIMITED

BETWEEN

KNOWLES LUMAMBO.....APPLICANT

AND

MATTHEUS DE KLERK.....1st RESPONDENT

CASSAVA STARCH OF TANZANIA

CORPORATION LTD.....2nd RESPONDENT

Date of Last Order: 10/11/2021
Date of Ruling: 19/11/2021

RULING

NANGELA, J.:

The Applicant herein has approached this Court by way of this application made under section 256 (1), (2) (a) of the Companies Act. The Application is by way of a chamber summons supported by an affidavit of the Applicant.

In this application, the Applicant is seeking for the following orders, that, this honourable Court be pleased to:

1. grant orders for variation of an Order for Administration of the 2nd Respondent issued by this Court on the 29th day of May 2020.
2. Order or direct the Administrator to make available to the Court on a quarterly basis, reports on the performance and discharge of his duties as sanctioned by the law.
3. Grant any other relief that this honourable Court shall find just and equitable.

It is befitting, in my view, to briefly state the facts leading to this application. The 2nd Respondent is a private Company with Registration No. 87782. It carries out a business of growing crops and manufacture of food products. In the year 2020, the 2nd Respondent was involved in a petition filed by the 1st Respondent who sought for orders that 2nd Respondent be placed under an official administrator.

The reasons advanced at the time were, that, the 2nd Respondent had, for some time now, been undergoing through a turbulence that had tossed the Company into a financial distress.

In view of that, a Petition was therefore preferred under to section 247 (1) (b), (2), (3) (a) and (c) and section 248 (1) of the Company Act, Cap.212, [R.E.2002]. On 29th May 2020, this Court granted the Petitioner's prayers to have Mr **KNOWLES LUMAMBO**, as an Administrator of the Company (2nd Respondent) for duration of up to one year from the date of the Order, to perform and discharge his duty for one year.

As part of his duties, the Applicant was required to make available to the Court, on quarterly basis, reports on the performance and discharge of his duties as sanctioned by the law. Up to the moment, however, it has not been possible for the Applicant to achieve the objective of rescuing the Company as going concern.

The Applicant has, consequently, approached this Court seeking for an order to vary the earlier order of the Court and extend the term of the administrator. According to his affidavit, the applicant

has asserted that, the rationale for the extended tenure is because the Company still has a viable long term business for growing crops and manufacture food products with a guaranteed market.

It is asserted that, the company's prospects to generate adequate cash-flow to meets its own operational needs and pay off its debts are very still open and, thus, if the term of administration is extended, it will be able to look for new investors who have shown interest to invest in the Company and hence improve its viability.

When this Application came for its hearing on 10th November 2021, Ms. Haika Macha advocate represented the Applicant while Ms Elizabeth Majuva learned advocate represent the Respondents. Ms. Haika informed this Court that, the Respondent is not contesting the application, a fact which was supported by Ms. Elizabeth Majuva.

I have looked at the affidavit and its annexure. In the circumstances of this application, I find it prudent that the Orders sought be granted so as to allow the Company meet its objective and already set long term plans of running its affairs in an efficient and profitable manner.

In the upshot, and on the basis of the facts disclosed in the affidavit and annexure thereto, this Court settles for the following orders, that:

1. The order of this Court dated 29th May 2020 is hereby varied and the tenure for Administration of the 2nd Respondent is extended to another year from the date of this Ruling.
2. That, this Court Doth hereby ordered and direct the Administrator to make available to the Court, on quarterly basis, reports on the performance and discharge of his duties as sanctioned by the law.
3. I make no orders to costs.



It is so ordered.

**DEO JOHN NANGELA
JUDGE,**