

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
MAIN REGISTRY
AT DODOMA
MISCELLANEOUS CIVIL APPLICATION NO. 13189 OF 2025
THE REGISTERED TRUSTEES OF THE
GLORY OF CHRIST TANZANIA CHURCH.....APPLICANT
VERSUS
THE REGISTRAR OF SOCIETIES.....1ST RESPONDENT
THE ATTORNEY GENERAL.....2ND RESPONDENT
THE INSPECTOR GENERAL OF POLICE.....3RD RESPONDENT

RULING

5th & 6th June 2025

MASABO, J

Through a certificate of urgency filed in this court on 4th June 2025, the applicant has moved this court under section 2(3) of the Judicature and Application of Laws Act, **Cap 358** praying for the following orders:

EX-PARTE

This Honorable Court may be pleased to order that the Order/ Communication by the Registrar of Societies issued on/communicated on 2nd June 2025, which has, at the time of making this Application, not been officially served upon the Applicant Church, be restrained/put in abeyance pending the Hearing and final determination of this Application Inter parties.

IN THE ALTERNATIVE

That, this Honourable Court be pleased to Order that the, *Status Quo Ante* as currently pending regarding the registration Status of the Applicant Church, in respect of which no Official Notice, Communication, Correspondence, Letter, Notification or

Certificate has been served upon the Applicant Church, be maintained pending the Hearing and Final determination of this Application inter parties.

INTER-PARTIES

- i. That, this Honourable Court be pleased to Order that the implementation of the Order/Communication/Decision of the 1st Respondent to, with immediate effect, suspend/prohibit the Religious and Spiritual and Congregatory activities of the Applicant Church, be restrained, suspended and stayed pending the Hearing and final determination of an Appeal filed and lodged with the Minister for Internal Affairs within the Appellate Powers of the said Minister within the provisions of Section 19(1) of the Societies Act, Cap 337, RE 2019.
- ii. That, this Honourable Court be pleased to Order that the Order/Communication/Decisions of 1st Respondent to, with immediate effect, suspend/prohibit the Religious, Spiritual and Congregatory activities of the Applicant Church be restrained, suspended and stayed pending the affordance of full Statutory Rights to the Applicant Church by the 1st Respondent.
- iii. That this Honourable Court be placed to refrain the 3rd Respondent from interfering with the Religious, Spiritual and Congregator activities the Applicant basing on any prohibitory suspense cancellation Orders/ Communications Division of the 1st Respondent against the Applicant Church until all Appellate and or re- hearing undertakings by the minister for Home Affairs/ or determined by the Minister aforesaid and/ law the 1st Respondent.
- iv. Any other just and equitable Order.
- v. Costs of this Application be provided for

The application is braced by an affidavit of Bryson Kaleb Lema who is identified as a Principal Officer of the Applicant's Church, and a Registered Trustee thereof.

Appearing before me, the respondents jointly represented by Ms. Vivian Method, learned Principal State Attorney assisted by Ms. Narindwa Sekimanga, Senior State Attorney, Mr. Erigi Rumisha and Ms. Kumbukeni Kondo, learned State Attorney's raised a preliminary point of law and prayed that it be heard and determined first as it concerns the jurisdiction of this court to entertain the application. There being no objection from Mr. Peter Kibatala, the learned counsel for the applicant, leave was granted to the parties to address the court on this issue.

Exercising her right of first audience, Ms. Method, learned Principal State Attorney, submitted that this court has no jurisdiction to entertain the application. She argued that, the kernel of the present application is a letter dated 2/6/2025 ("Annexure TAL-2" to the affidavit) purportedly issued by the 1st defendant containing its decision to deregister an entity named **"GLORY OF CHRIST CHURCH"** which name is different from the name of the applicant herein, namely the **"REGISTERED TRUSTEES OF THE GLORY OF CHRIST TANZANIA CHURCH"**. The disparity in the name, which has been dully acknowledged in paragraph 14 of the affidavit filed in support of the application, entails that there is no decision against the applicant worth the injunctive orders sought as she is neither the addressee nor the subject of the purported decision. She argued further that, the purported decision is unsigned and as duly acknowledged through the chamber summons and paragraph 14 of the affidavit, it has not been officially furnished upon the

applicant. The letter appended to the affidavit was obtained through social media. Hence, a mere speculation and inexistence. Resting her submission, the learned PSA argued that this court cannot entertain the present application unless it is certain about the existence of the purported decision. Since such existence is uncertain, the application is unmaintainable for being based on speculation and for being filed prematurely. Entertaining the same would be a wastage of the time and resources of this court as its outcome will be devoid of objectivity and legal force. Thus, it is in the interest of justice that it be struck out and the applicant remain at liberty to refile the same once he receives the deregistration decision, if any, against him.

Mr. Kibatala, ardently objected. He argued that the preliminary objection is a lucid misdirection as what has been submitted, is not a jurisdictional issue and it is outside the scope of preliminary objection set out in the land mark case of **Mukisa Biscuit Manufacturing Co. Ltd. vs West End Distributors Ltd** [1969] E.A. 696 and in which it was held that, the preliminary objection operates on the assumption that what has been stated in the pleadings are true and correct. Its determination need not be based on the substance of the application. The reference to the paragraphs of the affidavit and the annexures, was inconsistency with law and practice on preliminary objection as it dwelt on the merits of the application.

While admitting that the purported deregistration is in the name other than the applicant's name, it is unsigned and was not furnished upon the applicants, he maintained that those three points are due for determination in the appeal pending before the Minister for Home Affairs. The applicant's major complaint in the appeal is that, although she is not the addressee of

the letter, its implementation has directly affected her as the 3rd respondent, purportedly enforcing the said letter, has halted her activities and detained some of her members in total derogation of their right to worship which is a fundamental constitutional right. Hence the prayer for Mareva injunction to restrain the respondents from interfering with her activities. In fortification of his submission, he cited the decision of this court in **Vicent Investment Limited vs. AG and 3 others**, Misc. Civil application No. 13 of 2023 [TZHC] 16084 where it was held that a party who approaches the court seeking for temporary injunction under section 2(3) of Judicature and Application of Laws Act (supra) is entitled to the protection of the court. As for the cited case, he distinguished it and argued that it is inapplicable.

The sole issue for determination from this rivalry submission is whether this court is clothed with jurisdiction to entertain the instant application. This being a preliminary objection, I will stand guided by the law on preliminary objections as propounded in the case of **Mukisa Biscuits** (supra), in which, as correctly submitted by Mr. Kibatata, it was held that, preliminary objection must raise a pure point of law. The court in that landmark case stated that:

"A preliminary objection is in the nature of what used to be a demurrer. It raises a pure point of law which is argued on the assumption that all the facts pleaded by the other side are correct. It cannot be raised if any fact has to be ascertained or if what is sought is the exercise of judicial discretion."

This principle has been affirmed in a plethora of authorities in our jurisdiction. It is now a trite law in our jurisdiction that, a preliminary point of law should raise a pure point of law as opposed to factual issues requiring

evidence to establish. In **Karata Ernest & Others vs. Attorney General** (Civil Revision 10 of 2020) [2010] TZCA 30 (29 December 2010, the Court of Appeal of Tanzania, while cementing the principle above, instructively held that:

At the outset we showed that it is trite law that a point of preliminary objection cannot be raised if any fact has to be ascertained in the course of deciding it. It only "consists of a point of law which has been pleaded, or which arises by clear implication out of the pleadings. Obvious examples include: objection to the jurisdiction of the court; a plea of limitation; when the court has been wrongly moved either by non-citation or wrong citation of the enabling provisions of the law..."

And, in a subsequent decision in **Soitsamhu Village Council vs Tanzania Breweries Limited & Another** (Civil Appeal No. 105 of 2011) [2012] TZCA 255 (17 May 2012) it stated that:

A preliminary objection should be free from facts calling for proof or requiring evidence to be adduced for its verification. Where a court needs to investigate facts, such an issue cannot be raised as a preliminary objection on a point of law. The court must therefore insist on the adoption of the proper procedure for entertaining applications for preliminary objections. It will treat as preliminary objections only those points that are pure law, unstained by facts or evidence, especially disputed points of fact or evidence.

In the present case, Mr. Kibatala has invited the court to find that, the point raised is not under the purview of preliminary objection as it is pregnant with

facts requiring proof. He has challenged the learned state attorney's reference to paragraph 14 of the affidavit and annexure TAL-2. The reference, he has argued, sharply contrasts with the above principles. I respectfully disagree with the learned counsel. In determining preliminary objections, the court invariably looks into the pleadings because, as held in **Ali Shabani & Others vs Tanzania National Roads Agency (TANROADS) & Another** (Civil Appeal No. 261 of 2020) [2021] TZCA 243 (10 June 2021):

"no preliminary objection will be taken from abstracts without reference to some facts plain on the pleadings."

Also, and as correctly submitted by Mr. Rumisha, when dealing with points that have been acknowledged as pure points of law such as time limitation and jurisdiction, the court may also look into the annexures as held in **Moto Matiko Mabanga vs Ophir Energy Pic & Others** [2021] TZCA599 (22 October 2021) TanzLII. The Court of Appeal dealing with an objection on time limitation stated that:

".....it is clear that an objection on account of time limit is one of the preliminary objections which courts have held to be based on pure point of law which touches on the jurisdiction of the court and whose determination does not require ascertainment of facts or evidence. To determine such an objection, the court needs only to look into the plaints and its annexures without any further facts or evidence to be ascertained in determining as to whether the suit is time barred."

The instant preliminary objection being on the jurisdiction of this court, is therefore exempted from strict interpretation. The reason for this flexibility is not farfetched. As held in a plethora of authorities, the jurisdiction of the

court to adjudicate any matter is a creature of statute. It cannot be assumed or clothed on the court by the parties (**Commissioner General Tanzania Revenue Authority vs Jsc AtomredmetZoloto (armz)** (Consolidated Civil Appeals 78 of 2018) [2020] TZCA 306 (9 June 2020) TanzLII and **Fanuel Mantiri Ngunda vs Herman Mantiri Ngunda & Two Others [1995] TLR 155** etc). It is therefore crucial to holistically read the pleadings to avoid the danger of proceeding with the case on assumption that the court has jurisdiction. Accordingly, I entirely agree with Mr. Rumisha that Ms. Method's reference to the chamber summons and paragraph 14 of the affidavit bracing the application was well in order and so was her reference to the annexure. It did not, by itself, render the preliminary objection factual and incompetent.

Having resolved this, I will now move on to the merit of the preliminary points raised by the Principal State Attorney. While going through her submission, I have observed that, in spite of jurisdiction being a creature of statute and a pure point of law, she cited no provision of law or precedent in support of her objection. Her submission and the rejoinder submission, Mr. Rumisha, are implicitly and explicitly show that this court is enjoined to entertain the application for injunctive orders under section 2(3) of the Judicature and Application of Laws Act. But, in the circumstances of the present case, the exercise of such powers will not serve the intended objective and will lead to absurdity as it is uncertain whether the impugned decision exists and if it exists, the party who is challenging it is different from the intended entity. In other words, the application is based on apprehension and the orders issued, will be nugatory.

In the foregoing of this submission, I have failed to comprehend how the jurisdiction of this court is ousted. The argument that the purported letter of deregistration bears the name of an entity dissimilar to the applicant herein and it has not been furnished upon the applicant, appears to be centered not on the jurisdiction but on the applicant's *locus standi* to apply for injunctive orders of a decision issued in someone else's name and whether she has any cause of action against the respondents. That said and done, the preliminary objection is overruled with no costs.

DATED at **DODOMA** this 6th day of June 2025.



A handwritten signature in blue ink, consisting of stylized, overlapping loops and lines.

J. L. MASABO

JUDGE