



THE UNITED REPUBLIC OF
TANZANIA



**NORTH MARA GOLD MINE LTD V. MODESTA MAHANDO
MATIKO & OTHERS**

**COURT OF APPLICATION OF TANZANIA
AT DAR ES SALAAM
(MURUKE. J.A.)**

CIVIL APPEAL No. 202512050002434 of 2025

(Application for stay of execution of the judgment on admission and its decree of the High Court of Tanzania at Musoma Mahimbali J, dated the 14th day of April, 2023 in Land Case No. 04 of 2023)

Civil procedure — Stay of execution pending appeal

The Applicant sought a stay of execution of a High Court decree (a judgment on admission and extracted decree) pending its appeal, contending the execution amounts were irregular, inconsistent with the judgment on admission, and that the appeal raises crucial legal issues. The Respondents opposed on grounds the application was filed late, that the Applicant gave no specific undertaking as to security, and that Respondents would suffer hardship because their homes had been acquired and demolished. The Court found the application was timely under Rule 11(4) of the Court of Appeal Rules and that the Applicant had averred potential substantial loss and given a firm undertaking to provide security as contemplated by Rule 11(5) (b). The Court accepted that a firm undertaking may suffice and that the amount sought in execution was contested on appeal. Balancing convenience and to prevent the appeal becoming nugatory, the Court granted a conditional stay, ordering the applicant to deposit a bank guarantee for Tshs. 371,665,952.76 within 30 days and to serve respondents' counsel within seven days of deposit.



THE UNITED REPUBLIC OF TANZANIA



Held

1. The Court held that the Applicant filed the stay application within the 14-day period required by Rule 11(4) of the Court of Appeal Rules 2009, and therefore the application was not time-barred.
2. The Court found the Applicant had averred that it would suffer substantial loss if execution proceeded and that the decree sum and related execution amounts were contested in the pending appeal, making the subject-matter appropriate for a stay.
3. The Court held that a firm undertaking to furnish security is acceptable where the applicant promises to provide security and the Court can set a reasonable time within which the security must be given; a specific form or immediate deposit is not strictly required.

The Court ordered a conditional stay was appropriate, subject to a bank guarantee to secure the decretal and execution amounts.

Statutory provisions referred

Rule 11 (4), and (5) (b) of the Tanzania Court of Appeal Rules 2009 (the Rules)

Cases Laws

- a. Mantrac Tanzania Limited v. Raymond Costa, Civil Application No. 11 of 2010 (unreported)

Advocate Godwin Nyaisa represented the Applicant,

Advocate Juvenalis Motete represented the Respondent