

David Stewart Middleton

Box 53

Moshi

28th May 2006

*Mr. Lyimo,
Deputy Attorney General & Permanent Secretary
Ministry of Law and Constitutional Affairs
P.O. Box 9050
DAR ES SALAAM*

Dear Mr. Lyimo ,

REPORT ON ATTACHED LEGAL DOCUMENTS

I send the attached documents to you and refer you to the obvious overt and blatant corruption that has been engaged in to obtain them once again to my harassment and detriment.

I make comment on them in numerical order as follows:-

Document 1.

This document was left at our farm gate on 24th May, with no other documents. Please note the following:-

- a. It is stated to be an ex-parte interim order. It is not accompanied by a certificate of urgency, chamber summons or application or affidavit.
- b. It states, that the application is to come up for ruling in front of Hon. Herbert.
- c. There is no date for the hearing stated.
- d. Hon. Herbert has not signed the order, it is signed by Hon. Temu.
- e. The document is marked Misc. Civil Application No 16 of 2006.

Document 2.

This document was brought to the farm and served on me at the farm gate . Present was the OCS Boma Ngombe, three armed police officers, Mr. Mengi, Mr. Arnold Kimaro and a veterinary doctor from Mawenzi veterinary practice and the court broker Mtengeri. There were also unknown person there as well.

I was told by the OCS that ‘the judge’ had ordered them to see the papers served and that if I refused entry to anybody present, the gates to the farm would be cut open.

Please note the following:-

- a. The document is again marked as an ex-parte interim order.
- b. It is again marked as misc. Civil Application No 16 of 2006.
- c. The application is now stated to be before Hon. Temu and not Hon. Herbert.
- d. This order is now signed by Hon. Temu.
- e. The order has been changed and now states that the respondent refused to accept service. It does not state, what the respondent has refused to accept service of.
- f. The entire essence of the order differs from document 1, above.
- g. Please not the final paragraph i.e. **IT IS HERBY ORDERED** is not included in document 1.

DOCUMENT 3

This document was given to me with document number 2 at the gate. It is the Plaintiff together with the summons. This s the first time we have seen the summons or the plaintiff.

I make the following comments:-

- a. The first mention of the case is stated to be the 19th June.
- b. The plaintiff is against me personally I do not own the farms.

DOCUMENT 4

Document 4 (a).

This document is stated to be, a notice of mention of a hearing requesting an interim order, under a certificate of urgency and stated to be heard on the 19th June 2006. It is signed by Hon. Temu and dated 24th May 2006 and post dates documents 1 above and is the same date as document 2.

Document 4 (b)

certificate of urgency dated and filed on the 16th May.

The document is stated to be deponed. A chamber application is not, deponed!!!

It is attested by the attorney generals chambers with the signature of Prosper Rwegerera.

This document is represented to be a Certificate of Urgency application to the court. It is inappropriately drafted and yet, it has been accepted for filing by the court registry officer on the 16th My 2006.

Document 4 (c)

This document is stated to be an ex-parte Chamber summons and Chamber Application stated to be made under O.XL111 and section 95 of the CPC.

Please note, that both are marked ex-parte. **How can this be possible when it is set for hearing on 19th June?** This does not make sense.

Also note, that the application sates, 'let all parties concerned appear before Hon. Magistrate.....in Cambers on the 19th day of June etc.

It is signed by the **Principle resident magistrate in Moshi** on the 16th May.

DOCUMENT 4 (d)

This document is the affidavit of Mrs. Mengi in support of the Chamber application.

It is again sworn at the Attorney General's office by Prosper Rwegerera

DCOCUMENT 4 (e)

This document is purported to be a Power of Attorney.

It does not conform to the format required by law and is not registered at the Ministry of Land, Human Settlement Development as it is required to be.

Whilst Powers of Attorneys may have audience under procedural circumstances, they cannot 'plead' as seems to be the case here if you refer to documents 1 and 2 above.

CONCLUSION

The court has no powers to issue any order against me in respect of Silverdale Farm or entertain this suit, I am not the owner of the farms

Two onerous and conflicting 'ultra vires' court order have been issued by the court against me in respect of persons unrelated to this pliant **PRIOR TO** the date set for the hearing of the application of the orders.

What more can we say? How can we be expected, to defend ourselves vis-à-vis this degree of corruption in your courts in Moshi?

I seek your advice as to how you now advice us to conduct ourselves in respect of these farcical proceedings bearing in mind, that we have police officers at our gates daily threatening to arrest me and, the magistrate issuing these ultra vires order will be the magistrate hearing this case?

Further, we have had armed police at the gate to our home five times in respect of this farcical situation. What business is this matter to the police?

Yours sincerely,

Stewart Middleton.

cc. Hon Dr, Mary Nagu (MP)
British High Commissioner Dar es Salaam
Judge in Charge, High Court of Tanzania Moshi.
Hon. Dr. Juma Ngasongwa (MP)