

**IN THE RESIDENT MAGISTRATE'S COURT
OF DAR ES SALAAM**

AT KISUTU

CIVIL CASE No. _____ OF 2014

ERICK M. LELO _____

PLAINTIFF

VERSUS

TANZANIA PORTS AUTHORITY _____

DEFENDANT

PLAINT

The Plaintiff above named begs to state as follows:

1. That the Plaintiff is an adult person and resident of Dar es Salaam, whose address of service for purposes of this suit is in the care of:

LAWconsult ADVOCATES
3rd Floor, N.K. Building, Near Tokyo Auto Centre
Msimbazi/Sikukuu Street
P. O. Box 12471
DAR ES SALAAM
Email: lawconsultadvocates@gmail.com
Phones: +255 715 383 593; 754 383 593

2. That the Defendant is a parastatal organisation established by Act of Parliament, to wit, the Tanzania Ports Authority Act No. 17 of 2004, whose address of service for purposes hereof is:

Director General
Tanzania Ports Authority
Port Main Quay No. 1
P. O. Box 1130
DAR ES SALAAM

3. That the Plaintiff's claim against the Defendant is for payment of **USD 16,235 (Say USD Sixteen Thousand Two Hundred Thirty Five Only)** being compensation for his motor vehicle damaged and sold in the hands and control of the Defendant; payment of **TShs. 50,000,000.00 (Say**

Tanzania Shillings Fifty Million Only) as general damages; also interest and costs of the suit.

4. That sometime in **February 2008**, the Defendant imported from Japan a used motor vehicle; make *Land Rover Discovery* with Chassis No. *SALL T-GM 23 X A 216344* at CIF Value of **USD 16,235 (Say USD Sixteen Thousand Two Hundred Thirty Five Only)** to Dar es Salaam Port, which is under control and management of the Defendant. **Copies of the relevant Commercial Invoice and Bill of Lading are hereby attached and collectively marked "ANNEXTURE EL - 1", for which leave is craved to form part of the Plaint.**
5. That upon arrival of the said motor vehicle at Dar es Salaam Port and after it was off-loaded, the said motor vehicle got damaged by sinking into the ocean whilst under control of officials of the Defendant who were shifting the motor vehicle from the place of off-loading to another place designated for storing off-loaded vehicles.
6. That the Defendant without exercising any due diligence failed even to notify the Plaintiff of the fact relating to the damage, thereby forcing the Plaintiff to incur extra costs to search for the whereabouts of his vehicle, and successfully got to know what befell the vehicle as stated in the preceding paragraph 5 hereof.
7. That on **16th June 2008** the Plaintiff communicated with the Defendant claiming for full compensation of the value of his vehicle to enable him order a similar vehicle, which communication was positively responded to by the Defendant on **24th June 2008**, with the Defendant promising to carry out an investigation on the claim and revert to the Plaintiff. **Copies of correspondences as stated are attached hereto and collectively marked "ANNEXTURE EL - 2". Leave is sought for the same to form part of the Plaint.**
8. That on **13th August 2008**, the Plaintiff received a letter from the Defendant confirming that the Plaintiff's vehicle was damaged in the process controlled by the Defendant as stated in the preceding paragraph 5 hereof, whereby the Defendant accepted responsibility and liability in respect of the damage; further that the Defendant advised the Plaintiff to assist in the process of determining the extent of damage caused. **Copy of the letter referred to in paragraph 8 hereof is annexed hereto as "ANNEXTURE EL - 3" forming part of the Plaint subject to leave.**
9. That in **October 2008**, the Plaintiff submitted to the Defendant his proposal on the actual cost of damage, with the Defendant vide a letter dated **24th October 2008** confirming

receipt of the Plaintiff's proposal and promised the Plaintiff that soon the Plaintiff would be informed of the outcome. **Copy of the said letter by the Defendant is hereby attached and marked "ANNEXTURE EL - 4", and leave is craved for the same to form part of the Plaintiff.**

10. That on **27th November 2008**, the Defendant advised the Plaintiff to lodge motor vehicle documents with Customs Authority as a matter of procedure so as to finalise the Plaintiff's claim. **Relevant copy of the Defendant's letter is hereby attached as "ANNEXTURE EL - 5" to form part of this Plaintiff subject to leave.**
11. That the Plaintiff could not immediately lodge the documents due to delays occasioned by the damage caused to his vehicle, coupled with problems related to his workplace, however in **June 2013**, the Plaintiff was able to lodge the documents with Customs Authority and was given Customs Declaration **No. A 64651** of **27th June 2013**. **Copy of the said Declaration is appended hereto and marked "ANNEXTURE EL - 6. Leave of the Court is craved for the same to form part of the Plaintiff.**
12. That whilst the Plaintiff was busy processing the clearance of the damaged vehicle, he was notified by Customs that the Defendant through a notification titled - "*want of entry slip*" issued from Port of Dar es Salaam on **18th March 2009**, instructed the Customs Authority to dispose of the vehicle, which notification for disposal was done secretly without informing the Plaintiff. **Copy of the said notification for disposal is hereby attached as "ANNEXTURE EL - 7", for which leave is sought to form part hereof.**
13. That based on the Defendant's instructions, Customs Authority through Majembe Auction Mart sold the damaged vehicle through a public auction conducted on **9th June 2011**. **Copy of a sale agreement to the effect stated in paragraph 13 is attached herein and marked "ANNEXTURE EL - 8". Leave of the Court is craved for the same to be part of the Plaintiff.**
14. That on **29th June 2013** the Plaintiff notified the Defendant of the completion of the clearance formalities through Customs and a demand of his vehicle, as per copy of a letter to that effect annexed hereto as **"ANNEXTURE EL - 9"** forming part of the Plaintiff subject to leave.
15. That to date the Defendant has failed to make any reply to the Plaintiff's demand for his vehicle and or compensation in lieu thereof, thus causing the Plaintiff to suffer specific damages for the loss of his vehicle amounting to **USD 16,235 (Say USD Sixteen Thousand Two Hundred Thirty Five Only).**

16. That the Defendant's negligent and unprofessional handling of the Plaintiff's vehicle and failure by the Defendant to compensate the Plaintiff, have all subjected the Plaintiff to unspeakable embarrassments, loss of use of his motor vehicle, mental torture, physical distress; more over the Defendant sold the motor vehicle after it was removed from the water without informing the Plaintiff; for the reason whereof, the Plaintiff claims for general damages to the tune of **TShs. 50,000,000.00 (Say Tanzania Shillings Fifty Million Only)**.
17. That the amount of money spent by the Plaintiff for purchasing the vehicle in 2008, to wit, **USD 16,235 (Say USD Sixteen Thousand Two Hundred Thirty Five Only)** has now depreciated in value due to passage of time, thus the Plaintiff claims for interest on the amount at the rate of 5% per month from the date the vehicle got damaged to the date of full payment.
18. That both the cause of action and pecuniary limits fall within the ambit of jurisdiction of this Honourable Court.

WHEREFORE, the Plaintiff prays for Judgment and Decree against the Defendant as particularised hereunder:

- (a) An Order for payment of **USD 16,235 (Say USD Sixteen Thousand Two Hundred Thirty Five Only)** being compensation for the value of the damaged and wrongly sold motor vehicle.
- (b) An Order for payment of 5% monthly interest on (a) above from the date the vehicle got damaged to the date of full payment.
- (c) An Order for payment of **TShs. 50,000,000.00 (Say Tanzania Shillings Fifty Million Only)** being general damages.
- (d) An Order for payment of 5% monthly interest on the decretal sum from the date of decree to the date of full settlement.
- (e) Costs be provided for.
- (f) Any other Order and relief as the Honourable Court may deem fit to grant in the circumstances.

Dated at Dar es Salaam this _____ day of _____,
2014

ADVOCATE FOR THE PLAINTIFF
PLAINTIFF

VERIFICATION

I, ERICK M. LELO, do hereby verify that all what is stated in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 above is true according to my own knowledge

VERIFIED at Dar es Salaam this _____ day of _____,
2014

PLAINTIFF

Presented for filing this _____ day of _____,
2014

COURT CLERK

To Be Served Upon:

Tanzania Ports Authority,
ADVOCATES,
Port Main Quay No. 1,
P. O. Box 1130,
DAR ES SALAAM

Drawn & Filed By:

G. B. Taisamo, Advocate,
LAWconsult
3rd Floor, N.K. Building,
Msimbazi/Sikukuu Street,
P. O. Box 12471,
DAR ES SALAAM