

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

MISCELLANEOUS COMMERCIAL APPLICATION NO. 11375 OF 2026

(Arising from Commercial Case No. 4522 of 2025)

TANGA PHARMACEUTICAL AND PLASTICS LIMITED APPLICANT

VERSUS

ANGEL COSMETICS 1ST RESPONDENT

DREAM COSMETICS 2ND RESPONDENT

RULING

25/05/2026

KINYAKA, J.:

The applicant is the defendant in the plaintiff's main suit but the plaintiff in her counter claim in Commercial Case No. 4522 of 2025. In the main suit, the 1st and 2nd respondents, the companies duly registered under the Laws of the Democratic Republic of Congo and Cote D'Ivoire, respectively sued the

applicant for passing of the Day by Day mark which they claimed to have acquired considerable goodwill in Tanzania.

Since the respondents are registered outside Tanzania, the applicant preferred the present application under Order XXV Rule 1(1), and sections 78(e) and 105 of the Civil Procedure Code, Cap. 33 R.E. 2023, the "CPC", for the grant of the following orders:

- (i) That this Honourable Court may be pleased to order the 1st and 2nd respondents to deposit in Court a sum of TZS 60,000,000 or any such amount as the Court shall determine to be just before Commercial Case No. 4522 of 2025 filed by the respondents on 27th February 2025 are heard by this Honourable Court, being security for costs incurred and/or likely to be incurred by the applicant.
- (ii) An order dismissing Commercial Case No. 4522 of 2025 if the 1st and 2nd respondents fail to deposit the security for costs directed by the Court.
- (iii) That costs of this application be provided for; and
- (iv) Any other order or relief that the Honourable Court shall deem fit and just to grant in the circumstances.

The respondents disputed the application alleging prejudice on their party. They deposed that they have been complying with orders for payment of costs in all proceedings between the parties and confirmed that any order in favour of the respondents will be respected.

On the date of hearing of the application, the applicant and the respondents were represented by Advocate Paschal Kamara and Advocate Honest Shio, respectively.

Mr. Kamara was quick to point out to the Court that parties had discussed on the present matter culminating to the respondents' commitment to deposit TZS 20,000,000. He informed the Court that the applicant has accepted the proposed amount and prayed to the Court for an order that the respondents be ordered to deposit TZS 20,000,000 as security for costs. He prayed for an order that each party should bear its own costs.

Advocate Shio supported the submissions by Mr. Kamara that the respondent has committed to deposit TZS 20,000,000 as security for costs.

Turning to resolve whether the application is merited, I have thoroughly read the affidavit and the counter affidavit of the applicant and respondents, respectively. I have ascertained from the affidavit and counter affidavit that

both respondents are residing outside Tanzania and none of them possess any sufficient immovable property within the country. As such, I hold that the applicant has attained the threshold for the grant of the present application in accordance with Order XXV Rule 1(1) of the CPC which provides:

"Where, at any stage of a suit, it appears to the court that a sole plaintiff is, or, when there are more than one plaintiffs, that all the plaintiffs are residing out of Tanzania, and that such plaintiff does not, or that no one of such plaintiffs does, possess any sufficient immovable property within Tanzania other than the property in suit, the court may, either of its own motion or on the application of any defendant, order the plaintiff or plaintiffs, within a time fixed by it, to give security for the payment of all costs incurred and likely to be incurred by any defendant."

Upon establishing that the respondents are covered under Order XXV Rule 1(1) of the CPC, the next question is what should be the amount of deposit to cover costs of the applicant in defending main suit. In **Dow Agrosciences Export S.A.S vs I.S & M (Metal) Limited** (Commercial Case No.55 of 2007) [2009] TZHC 578 (8 June 2009), this Court observed:

"Once the court is satisfied that security for costs should be given it would consider various factors in determining the quantum, including the complexity of the case, research workload involved, costs incurred up to the time of application and after. The applicant should provide sufficient material to the court showing how the figure proposed if any was arrived at."

Consequently, I order the respondent to deposit security of TZS 20,000,000 to cover the applicant's costs in defending Commercial Case No. 4522 of 2025. The amount should be deposited within fourteen days from the date of this order.

Considering the agreement reached by the parties in the present matter, I order each party to bear its own costs.

It is so ordered.

DATED at DAR ES SALAAM this 25th day of May 2026.



H. A. KINYAKA

JUDGE

25/05/2026