

COMPANY NEWS

JUSTICE

The judge says NMB Bank's officials accessed the plaintiff's account in compliance with court orders

Court clears NMB in Sh158m suit

The company sought an order for payment of Sh158.6 million being compensation for the loss and payment of general damages of not less than Sh300 million

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Dar es Salaam. The High Court has dismissed a suit in which directors of a Makambako-based company were demanding payment of Sh158 million from a bank, which they accused of releasing details of its account to a third party without their consent.

Light and Hurry Enterprises Company Ltd brought the suit against NMB Bank in 2018 which it accused of breaching the duty of confidentiality to protect information relating to

its account.

The dispute started in September 2018 when one of the directors of Light and Hurry - which holds an account with NMB Bank at Makambako Branch for over 20 years - visited the bank in Dar es Salaam with the intention of transferring Sh50 million to Barclays Bank to partly pay for the purchase of bonds valued at Sh100 million.

The director was informed by a bank official that Sh32 million had been attached in compliance with a court order issued by a resident magistrates' court in Manyara. This hindered them from buying the bonds.

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MAGOIGA | JUDGE

The company alleged that the failure to purchase the bonds denied them Sh158.6 million in profit from the investment after 10 years.

At the commercial court, the company sought an order for payment of Sh158.6 million being compensation for the loss and payment of general damages of not less than Sh300 million. At the hearing of the case, NMB Bank denied breaching con-

fidentiality, and argued that it was only complying with a lawful order of court that allowed them to access the account. A bank official had told the court that they had informed the plaintiffs of the court order regarding seizure of their account.

In his recent decision, High Court judge Stephen Magoiga sided with NMB, saying the bank's officials accessed the plaintiff's account in

compliance with court orders and not otherwise.

"A garnishee order from Manyara Resident Magistrate's Court negates any malice to the access of the account by the defendant (NMB Bank). The document shows clearly there was an order of the court," he said.

While agreeing it was an implied term of the contract between bank and customer that banker will not divulge information relating to its customers account to the third party, the judge was of a firm view that the banker can do so in compliance with a lawful court order.

"That duty of confidentiality is not absolute. It has limits and there are situations that a bank will disclose the information in a lawful manner," said the judge.