

**IN THE COURT OF APPEAL OF TANZANIA
AT DAR ES SALAAM**

CORAM: NYALALI, C.J. MAKAME, J.A, KISANGA, J.A, OMAR,

J.A AND RAMADHANI, J.A

**CIVIL APPEAL NO. 2 OF 1995
THE UNIVERSITY OF DAR ES SALAAM
APPELLANT**

AND

SYLVESTER CYPRIAN S 210 OTHERS RESPONDENTS

(Appeal from the Ruling and Order of the
High Court of Tanzania at Dar es Salaam)

(Kyando, J.)
dated 30th June, 1994
in
Miscellaneous Civil Cause No. 68 of 1994

R U L I N G

RAMADHANI, J.A:

Mr. Mnzava, the learned advocate for the appellant, has asked for a hearing by the full bench of this Court because he wants us to depart from our previous decision in Tanzania Harbours Authority V. Mvita Construction Co. Ltd., Civil Appeal No. 9 of 1994. He has a hunch that without overturning that decision he cannot proceed with his prayer of asking this Court to find that the respondents, Sylvester Cyprian and 210 others, have no locus standi in this appeal.

In Mvita Construction Co. Ltd. the respondents did not file their address for service as required by Rule 79. Nevertheless, they succeeded in their objection that the appeal was filed out of time because the appellant did not benefit from the proviso to Rule 83(1) as the respondents were not served with a copy of a letter requesting for a copy of record.

Mr. Mnzava understands the decision to have rendered nugatory the requirement of supplying an address for service by a respondent. That aggrieves him because he wants to use failure of the present respondents to supply their address for service as a ground for a finding that they have no locus standi.

Mr. Ndyanabo, learned advocate for the respondents, has submitted that there is no need for a full bench because Mvita Construction Co. Ltd. did not decide on locus standi but on limitation of time. So, the learned advocate argued, that appeal is not on all fours with the present one.

Mr. Lukwaro, learned counsel who appeared for the respondents in Mvita Construction Co. Ltd., appeared before us as amices curiae. He submitted that decision neither exempted a respondent from filing an address for service nor did it bless an omission to do so. The learned advocate said further that the Court directed that in such a failure by the respondent the appellant can use the address of the High Court.

We are in agreement with Mr. Lukwaro in his understanding of the judgement in Mvita Construction Co. Ltd. The requirement on a respondent to supply an address for service is still intact and failure to do so will have its consequences in appropriate cases. The question whether or not the failure will render a respondent not to have a locus standi will have to be decided by an ordinary panel of three Justices of this Court since Mvita Construction Co. Ltd. has not decided that issue.

This is not an occasion for constituting a full bench. The application is dismissed with costs.

DATED at DAR ES SALAAM this 27th day of November, 1995.

F. L. NYALALI
CHIEF JUSTICE

L. M. MAKAME
JUSTICE OF APPEAL

R. H. KISANGA
JUSTICE OF APPEAL

A. M. A. OMAR
JUSTICE OF APPEAL

A. S. L. RAMADAHANI
JUSTICE OF APPEAL

I certify that this is a true copy of the original.

(M. S. SHANGALI)
DEPUTY REGISTRAR