

**IN THE COURT OF APPEAL OF TANZANIA**

**AT TANGA**

**(CORAM: MUSSA, J.A., LILA, J.A., And MKUYE, J.A.)**

**CIVIL APPEAL NO. 272 OF 2017**

**AMBONI PLANTATION LTD.....APPELLANT**

**VERSUS**

**AMOS JAFET & 148 OTHERS.....RESPONDENTS**

(Appeal from the Judgment of the High Court of Tanzania Labour Court Zonal Center at Tanga)

**(Mipawa, J.)**

**dated 12<sup>th</sup> day of June, 2017**

**in**

**Revision No. 1 of 2016**

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**JUDGMENT OF THE COURT**

22<sup>th</sup> February & 1<sup>st</sup> March, 2019

**MUSSA, J.A.**

From the available record, it is common ground that the respondents herein were employees of the appellant who turns out to be a sisal plantation estate company.

The scanty evidence is to the effect that sometime in 2014 or so, the appellant assigned her employees to harvest sisal leaves from the

plantation. The employees, however, refused to carry the order, for the reason that the estate was too shrubby and surrounded with an inconvenient working environment.

In response, the appellant deducted a four days' wage, which was due for the month of March 2014, from each respondent. In turn, on the 14<sup>th</sup> April, 2014 149 employees of the appellant instituted a claim before the Commission for Mediation and Arbitration (CMA) seeking to recover the sums of money which were deducted. The claim which was instituted through CMA Form No. 1 was titled "*Athuman Mbaraka and 148 others.*" It seems, however, that the claim was not signed by all the claimants which prompted an ancillary Ruling of the CMA to the following effect:-

*"Tume katika kuweka sawa jambo hili iliamuru walalamikaji wote wawakilishe saini zao na kutoa maelezo kwamba wanaendelea na kesi katika hatua ya uamuzi na waoneshe uwakilishi/ watetezi wao. Na wamekwisha tekeleza hilo tarehe 05/11/2014. Hivyo CMAFI haiwezi kubadilishwa na walalamikaji wanaotambuliwa kwa sasa wakiomba shauri lao*

*kuendelea kwenye hatua ya uamuzi ni wale waliosaini tu 112” (see page 127 of the record.)*

We should pose here to interject a remark that the CMA did not quite elaborate who, exactly, were those 112 claimants who passed the test and neither did it declare the fate of the remaining 37 claimants who did not qualify.

At the conclusion of the hearing, the claimants emerged successful, whereupon on the 4<sup>th</sup> December, 2015 the CMA handed down an award of a sum of shs. 17,840/= to each of the 112 claimants.

The appellant was aggrieved and preferred an application for revision before the High Court (Labour Division). Ironically though, the revision was preferred against all the original 149 claimants including the 37 whose claims the CMA declined to consider. At the conclusion of the hearing, the application was dismissed (Mipawa, J.) for lack of merits.

Still aggrieved, the appellant presently seeks to impugn the decision of the High Court through a memorandum of appeal which is comprised of six points of grievance. The appeal has, again, been preferred against all the 149 claimants who originally filed the claim at the CMA.

Before us, the appellants were represented by Mr. Makarios Tairo, learned Advocate, whereas the respondents had the services of Mr. Jethro Tulyamwesiga, also learned Advocate. We allowed the contending counsel to canvass the grounds of the appeal but, in the end, we asked them to comment on the disquieting aspect of the appeal in that: The appeal has been preferred against all the 149 claimants including the 37 claimants whose claims were declined by the CMA.

Mr. Tairo sought to justify the mix up with the refusal of the CMA to allow the claimants to amend the CMAF1. From the other end, Mr. Tulyamwesiga, had a short answer: The appeal, he said, is not properly before the Court.

On our part, it would have been easier to sort out the deserving respondents if the CMA or the appellant had specified who exactly were the 112 claimants who won the award. On the contrary, we are confronted with an appeal against 149 persons which includes the claimants who won the award as well as those whose claims were declined by the CMA. The appeal is a total mix up and, for that matter, it cannot be said that the same is properly before the court and, the only viable option we are left

with is to strike it out. We, accordingly, do so and give no order as to costs.

**DATED** at **TANGA** this 28<sup>th</sup> day of February, 2019.


K. M. MUSSA  
**JUSTICE OF APPEAL**

S. A. LILA  
**JUSTICE OF APPEAL**

R. K. MKUYE  
**JUSTICE OF APPEAL**

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



  
E. Y. Mkwizu  
**SENIOR DEPUTY REGISTRAR**  
**COURT OF APPEAL (T)**