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IN THE HIGH COURT OF TANZANIA

AT DAR ES SALAAM

MISC. CIVIL CAUSE NO.126 OF 1999

ANCHOR ENTERPRISES..... APPLICANT

VERSUS

MAHENDRAKUMAR GOVINDJI MONANI... RESPONDENT

RULING

MSUMI, JK:

On his application, this court declared the applicant bankrupt and appointed the Official Receiver as its receiver. Being dissatisfied by this order, Tata Holdings (Tanzania) Limited, hereinafter referred as the intervener, filed a notice of motion urging the court to declare the bankruptcy petition and the proceeding therein a nullity. In response to the intervener's prayer, the applicant, without prejudice to his substantive defence, has raised a preliminary objection based on the contention that since there is no provision in the Bankruptcy Ordinance for intervener proceedings, the application of the intervener is incompetent. After this preliminary objection was overruled, the applicant is now applying for leave to appeal to Court of Appeal.

Counsel for the intervener is objecting the application on the ground that the intended appeal does not raise any important point of law worth the consideration of the Court of Appeal. I am respectfully of similar view. The right of a third

party aggrieved by court order made under the ordinance is clearly spelt out in the said ordinance. It is not true that such order can only be challenged by the parties in the proceedings. Equally not correct to argue that intervener proceedings under the Ordinance are regulated by the provisions of the Civil Procedure Code. The provisions of the Ordinance are quite exhaustive on the right of the third party aggrieved by court order issued in bankruptcy proceedings.

As a whole I am of considered view that the intended appeal does not raise any important issue which requires consideration of the Court of Appeal. Accordingly the application is dismissed with costs.


H.A. Msumi

JAJI KIONGOZI.

7.5.2002

For Applicant: Absent

For Intervener: Mr Jadeja.

Official Receiver: Absent