

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

CIVIL CASE NO.266 OF 2002

M/S SILENT INN HOTEL LIMITEDPLAINTIFF

VERSUS

THE KINONDONI MUNICIPAL COUNCIL...DEFENDANT

R U L I N G

A.Shangwa,J.

On 18th August 2003, Dr. Lamwai for the plaintiff filed a chamber application for leave to amend his client's plaint. His application is supported by affidavit of Thaddeus Lelo Makoi who is the managing Director of the plaintiff's company. The amendment sought is in respect of paragraph 3 of the plaint. This paragraph reads as follows :

" 3. That the plaintiff's claim against the Defendant is for THE SUM of Shs 50,000,000 /= being compensation for the loss suffered as a result of the Defendant's act of demolishing the plaintiff's property without notice".

In the intended amendment, the plaintiff wants to enhance the sum of money claimed as compensation from Shs 50,000,000/= to Shs 300,000,000/=. The reason which was given by Dr. Lamwai for the said increase is that at the time of filing the suit, there was partial demolition of the suit premises and that after filing it, the Respondent namely Kinondoni Municipal Council continued to demolish the suit premises.

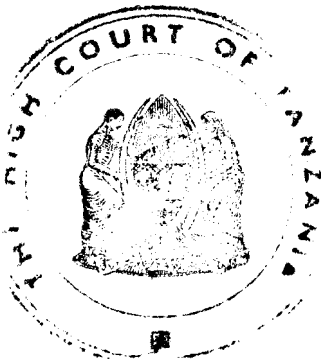
Mr. Mrindoko for the Respondent resisted the intended amendment by submitting that there was no subsequent

demolition of the suit premises which was carried out after the suit was filed. He contended that the plaintiff's claim in the intended amendment is an afterthought which is intended to defeat the course of justice.

The relevant provision for amendment of pleadings is O.VI r. 17 of the Civil Procedure Code, 1966. The said rule provides as follows :

" 17. The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties".

Reading the above quoted provision of law, I do not see anything which restricts this Court from granting leave to the plaintiff to amend its plaint in a manner which is intended for. For this reason, I grant this application and order that the amended plaint should be filed within two months from today . The case should come for mention on 3/2/2006. Delivered today in the presence of the parties representatives.




A. Shangwa

JUDGE

6/12/2005