

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

**CIVIL CASE NO.75 OF 2004**

**KISHA COMPANIES TANZANIA LTD .....PLAINTIFF**

***VERSUS***

**1.T.H.A .....DEFENDANTS  
2. PSRC**

**R U L I N G**

**A.Shangwa,J.**

In this case, the 2<sup>nd</sup> defendant PSRC has raised a preliminary objection that there is no legal basis for joining it in the suit. Learned counsel for both parties have submitted at length concerning this preliminary objection. Personally, I am going to be very very brief in my ruling on this preliminary objection because it is not for the first time that the 2<sup>nd</sup> defendant is raising a similar point of objection . All similar objections which were previously raised by the 2<sup>nd</sup>

defendant were dismissed by the Court . The Court did so by relying on the relevant provisions of the Civil Procedure Code, 1966 namely O.1.r.3.

O.1 r.3 of the said code settles the question as to who may be joined as defendants. It provides as follows:

**"r.3 all persons may be joined as defendants against whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist, whether jointly, severally or in the alternative, where if separate suits were brought against such persons any common question of law or fact would arise".**

In this matter, as the 1<sup>st</sup> defendant THA is under the official receivership of the 2<sup>nd</sup> defendant, the plaintiff do expect to get relief from the 2<sup>nd</sup> defendant if its claim against the 1<sup>st</sup> defendant will succeed. The legal basis for

joining the 2<sup>nd</sup> defendant lies in the fact that it is the official receiver of the 1<sup>st</sup> defendant against whom the plaintiff has lodged its claim.

O.1 r.5 of the same code settles the question as to whether or not in order to be joined in the suit, the defendant need be interested in it. Under this rule, it is provided that, it shall not be necessary that every defendant shall be interested as to all the reliefs claimed in any suit against him.

Therefore, in this particular case, for being joined in the suit, it was not necessary that the 2<sup>nd</sup> defendant should be interested in the reliefs claimed by the plaintiff .

For these reasons, I dismiss this preliminary objection with costs to the plaintiff.

  
**A. Shangwa, J.**

**15/12/2005**

Delivered in open Court this 15<sup>th</sup> day of December, 2005.

  
**A. Shangwa**

**JUDGE**

**15/12/2005**