

**IN THE HIGH COURT OF TANZANIA  
AT TANGA  
CIVIL CASE NO.9 OF 2010**

**SIMON MRASHANI ..... PLAINTIFF**

**VERSUS**

**TWALIB MAULID KINEGA ..... DEFENDANT**

**RULING**

Date of last order: 21/06/2011

Date of Ruling: 23/09/2011

**Teemba, J;**

The plaintiff, Simon Mrashani instituted this suit claiming against the Defendant a total of Tshs.220,000,000/= [two hundred and twenty million] being general damages for loss of reputation and false imprisonment by the defendant. The Defendant was served with a plaint. On 19<sup>th</sup> day of November, 2010, the Defendant filed a Written Statement of defence in which he enjoined a counter claim against the plaintiff. Defending the counter claim, the plaintiff on 6<sup>th</sup> day of December filed his defence in which he issued a notice to the Defendant that at the time of hearing of the Counter claim he shall raise preliminary objection on point of law (a) that, there, is no cause of action against the plaintiff.

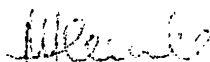
On 22<sup>nd</sup> day of June, 2011 parties prayed and were allowed to argue the point of objection by way of Written Submissions. Happily, they adhered to the scheduling order. On the date I was set to compose this ruling as to whether or not the Defendant has a cause of action against the plaintiff, I discovered from the pleadings that the plaintiff filed this suit claiming against the defendant general damages to the tune of Tsh.220,000,000/= and there is no substantive or specific amount claimed.

This Court has decided to raise this issue on its own motion at this stage because the jurisdiction of court goes to the fundamental root of the matter.

Now, the question to consider is whether general damages can determine the pecuniary jurisdiction of this court. It is a principle of law that, it is the

substantive claim and not the general damages which determine the pecuniary jurisdiction of the court. (See Tanzania - **China Friendship recital Co. Ltd. V. Our lady of Usambara Sisters (2006) TLR 70**. Subjecting the pleadings of this suit to the position of law, I am of the considered view that in the absence of a specific paragraph to establish the pecuniary jurisdiction of this court, the suit is improperly before the court. The same is hereby struck out. As the point of jurisdiction was raised by the court **suo moto**, I make no order for costs.

It is so ordered.



R.A. TEEMBA, J,  
23/09/2011

**Court:** The Ruling is delivered in the presence of Mr. Mlawa, for plaintiff and Mr. Mlanzi learned counsel for the defendant respectively.



R.A. TEEMBA, J,  
23/09/2011