

**IN THE HIGH COURT OF TANZANIA  
IN THE DISTRICT REGISTRY  
AT MWANZA**

**LABOUR REVISION NO.43 OF 2019**

**BETWEEN**

**SADIKI AMRAN LUKEHE.....APPLICANT**

**VERSUS**

**ALICE LUHANGA.....RESPONDENT**

**RULING**

19.11 & 27.2.2020

**U. E. Madeha, J.**

This application is against the ruling pronounced by the Commission for Mediation and Arbitration on 29/03/2019 with reference No. CMA/MZ/NYAM/640/2018. Of which the applicant invited this court to revise the ruling which to him was improperly and illegally procured and that the respondents counter affidavit be struck out for being incurably defective.

The brief background of this application is that, The applicant took the matter to CMA for determination, however before settlement the respondent raised preliminary objection stating that the matter was res subjudice as this matter had been brought before the CMA on the same grounds involving the same parties as in the present application, and was

never settle as it was adjourned till unknown date. Consequently, before delivering ruling on the preliminary objection raised by the respondent, the applicant also raised another preliminary objection claiming inter alia that the respondents advocate failed to submit notice of representation as the same was not filed by the respondent.

All these preliminary objections were ruled on 7/09/2019 whereas the arbitrator ruled that the matter was proved to be res subjudice and that the respondent's advocate was dully instructed to represent her in the CMA as there was no any irregularity in appointment, hence set the date for condonation hearing.

The applicant was not amused by the decision of the arbitrator in regard to the appointment of the respondent's advocate hence preferred revision to this court on various grounds. Before going into details while going through the records of CMA, I came across strange thing which i think must be addressed, there are two different rulings delivered on the same date, same parties but on the same subject matters. The procedure was of dealing with the first preliminary objection raised by the respondent was the proper one. And since the applicant conceded that there was a dispute pending determination and the Arbitrator was so satisfied, the

application ought to have ceased to await the end result of labour dispute No. CMS/MZA/612/2018. And not to proceed with hearing and determination of another preliminary objection raised by the applicant as it was done by the Arbitrator in the current revision at hand.

Having said so and without wasting precious time of the court, it is hereby ordered that the applicant should follow proper procedure to restore the dispute No. CMS/MZA/612/2018 which undetermined before the Commission, and that the Arbitrator should stop from hearing application for condonation as it was ruled. I give no order as to costs.

**DATED and DELIVERED at MWANZA this 27<sup>Th</sup> day of February, 2020**



A handwritten signature in black ink, appearing to read "Madeha", is written over a horizontal dotted line.

**U. E. Madeha**  
**Judge**  
**27/2/2020**