

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(DAR ES SALAAM DISTRICT REGISTRY)**

AT DAR ES SALAAM

CIVIL APPEAL NO. 190 OF 2019

(Originating from the Resident magistrates' Court of Dar es Salaam at
Kisutu, Civil Case No. 137 of 2018, Before Hon. W. A. Hamza, SRM)

ACCESS BANK TANZANIA LTD..... APPELLANT

VERSUS

MTAITA ADELINI FOKAS.....1STRESPONDENT

EUNICE GEBRA MUSAYA.....2NDRESPONDENT

RULING

EBRAHIM, J.

Upon being served with the memorandum of appeal, counsel for the respondents raised two points of objection that "struck out" order does not finalize the matter and that the petition is not accompanied by a drawn order. Counsel for the appellant conceded to the defect. Indeed, it is this court considered view that this appeal does not serve any useful purpose other than prolonging unnecessary proceedings for the detriment of court's and parties time. All the appellant had to do was to seek leave of the court and file a proper Written Statement of Defence depending on the circumstances.

I therefore sustain the objection with costs as the respondent raised the objection and struck out the appeal so that they could proceed with substantive matter on merits after following proper procedure to file a proper Written Statement of Defence at the trial court.

A handwritten signature in black ink, appearing to read 'R. A. Ebrahim', written in a cursive style.

R. A. Ebrahim

JUDGE

26/02/2020