

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF BUKOBA
AT BUKOBA**

CIVIL APPLICATION No. 24 OF 2019

(From the ruling/order 16th May, 2019 in Civil Reference No. 14/2018 of the Tanzania court f Appeal at Bukoba. Civil Appeal No. 06/2002 of the High Court of Tanzania at Bukoba arising from Civil Application No. 01/2002, civil Application No. 49/2001 and Org. Civil Case 48/2008 of the Bukoba District Court)

YAZID KASSIM MBAKILEKI.....APPLICANT

VERSUS

CRDB (1996) LTD BUKOBA BRANCH..... RESPONDENT

JACKEM AUCTION MART & COURT BROKER..... RESPONDENT

RULING

28th May & 04th June 2021

Kilekamajenga, J.

The applicant in this case, one Yazid Kassim Mbakileki, lodged an application seeking leave to appeal to the Court of appeal of Tanzania. In response, the respondents filed a counter affidavit resisting the application. However, the applicant noted some defects on the respondents' counter affidavit. He raised seven points of objection showing that the counter affidavit was defective. The applicant's objections were argued by way of written submissions. In the written submission, the applicant argued that the counter affidavit was defective. He indicated several defects and some of them were not relevant.

Now, without wasting much precious time of this Honourable Court, I glanced on the contested counter affidavit and noted that the counter affidavit seems to be drawn by the learned advocate, Mr. Frank Kalory John. However, the deponent

in the counter affidavit is the learned advocate, Mr. Aaron Kabunga. Furthermore, the counter affidavit does not seem to be signed by the deponent, instead it was signed by the drawer. I find this to be a defect which makes the counter affidavit incurably defective. For the interest of justice and to allow the matter proceed in merit, I allow the respondents to file a corrected counter affidavit within 14 days, then the matter should proceed for hearing on merit. Order accordingly.



Ntemi N. Kilekamajenga
JUDGE
04/06/2021



Court:

Ruling delivered this 04th June 2021 in the presence of the applicant and in absence of the respondents.



Ntemi N. Kilekamajenga
JUDGE
04/06/2021

