

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY

AT MWANZA

LABOUR REVISION NO. 83 OF 2020

(Originating from CMA/NYAM/APP/10/2019)

CRJE (EAST AFRICA) LTD..... APPLICANT

VERSUS

MUJUNI BWAKEA..... RESPONDENT

RULING

Date of last order: 27/07/2021

Date of Ruling: 30/08/2021

F. K. MANYANDA, J

This ruling is in respect of a preliminary objection raised by the Respondent, Mujuni Bwakea to the hearing of this application for revision. The Applicant CRJE (EAST AFRICA) LTD filed an application for revision after been dissatisfied by an award of the Commission for Mediation and Arbitration (CMA) for Mwanza in CMA/MZA/NYAM/APP 10/2019 delivered on 07/01/2020.

The Application was preferred by way of a chamber summons supported with an affidavit sworn by Emmanuel John. It is opposed by the

Respondent who filed a counter affidavit and raised a preliminary objection to the hearing of the revision on one point. The ground of objection is that the application has been overtaken by event on account that decretal sum of Tsh 17,850,000/= awarded by the CMA was satisfied by the Applicant in favour of the Respondent.

Hearing of the preliminary objection with leave of the Court was conducted by way of written submissions. It is the Respondent only who filed the written submissions. For unknown reasons or by design, the Applicant did not file any. Since the Applicant knew well the existence of the preliminary objection and the order of this Court dated 09/07/2021 requiring him to file the submissions in opposition, if any, this Court takes it that he deliberately refrained from been heard.

In such a situation, this Court, Hon. A. Mohamed, J (as he then was) in the case of **Lucy Kasoma vs Zaina Abdallah Making'inda**, Miscellaneous Land Application No. 72 of 2019 (unreported) when was confronted with a situation akin to this stated as follows; -

"Failure to file written submissions as ordered is akin to failure to appear on a hearing date and bears similar consequences."

In another case of **Famari Investment (T) Ltd vs Abdallah Seleman Komba**, Miscellaneous Civil Application No. 41 of 2018 (unreported) Hon. Dr. Mongella, J stressing on compliance with Court orders followed the authority in the case of **Olam (T) Ltd vs Halawa Kwilabya**, Civil Appeal No. 17 of 1999 where the Court of Appeal stated as follows: -

"Court orders are to be implemented; they must be obeyed. If orders made by Courts are disregarded or if they are ignored, the system of justice will grind to a halt or it will be so chaotic that everyone will decide to do only that which is conversant to them. In addition, an order for filing submissions is part of hearing. So, if a party fails to act within the prescribed time he will be guilty of in-diligence in like measure as if he defaulted to appear..... This should not be allowed to occur. Courts of law should always control proceedings, to allow such an act is to create a bad precedent and in turn invite chaos."

Other cases on point include **Harold Maleko vs Harry Mwasanjala**, Civil Appeal No. 16 of 2000 (unreported), **Geoffrey Chawe vs Nathaniel Chawe**, Miscellaneous Civil Application No. 22 of 1998 and **Andrea Njumba vs Trezia Mwigobene**, Civil Appeal No. 01 of 2006 (unreported) to mention a few.

In the latter case, this Court held that:-

"if a party fails to act within the prescribed time he will be guilty of in-diligence in like manner as if he has defaulted to appear and submissions which were filed out of time will not be acted upon."

In the matter at hand, the Applicant failed to file any submissions. This Court will deal with the submissions filed by the Respondent.

It is the argument of the Counsel that this application for revision is overtaken by events because the Respondent has already been paid his awarded compensation amounting to Tsh 17,850,000/= as ordered by the CMA on 17/01/2020.

The payment of the awarded compensation was done in execution, which the Counsel for the Respondent stated that was not opposed or objected to. In such circumstances, it was the views of the Counsel that any revision will be academic exercise and the award cannot at this stage be faulted.

I agree with the submissions of the Counsel for the Respondent that the award was fully satisfied by the Applicant. Moreover, the record shows the execution was unopposed by the Applicant. It is also on record that the prayer for arguing the preliminary objection by way of written submission was made by the Counsel for the Applicant then, what this Court can gather from the facts above is that the Applicant concedes to the objection.

In the result I find that this application is overtaken by events.

Consequently, I do hereby dismiss it in its entirety with costs. Order accordingly.




F. K. MANYANDA
JUDGE
30/8/2021