

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

MISC CIVIL APPLICATION NO. 57 OF 2021

(C/F Civil Case No. 01 of 2017)

BERNARD BUHOMA APPLICANT

Vs

TANZANITE ONE MINING LIMITED.....RESPONDENT

RULING

B.K.PHILLIP,J

The applicant herein lodged this application under the provision of section 96 of the Civil Procedure Code, Cap 33 R.E 2019 (herein after to be referred to as "the CPC") praying for the following orders;

- (i) This Honourable Court may be pleased to correct its decree by Honourable Court (Hon Justice T. Mwenempazi) dated 17th October, 2019*
- (ii) That the costs of this application be in course.*
- (iii) Any other Order(s) that this honourable Court may deem fit and just to grant.*

The application is supported by an affidavit sworn by the applicant. The applicant is represented by the learned advocate Henry Simon. When the application was called for hearing, Mr. Simon prayed to proceed with the hearing ex-parte as the decree the subject of this application was extracted from an ex-parte judgment of this court . Upon perusing the pleadings I was satisfied that this is a fit application

to be heard ex-parte. Thus, I allowed the applicant's advocate to proceed with the hearing as prayed.

Submitting for the application, Mr. Simon contended that the provision of section 96 of the CPC confers power to this Court to make corrections of any clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission. He went on submitting that in this matter the decree, the subject of this application has clerical mistakes as it indicates that the judgment from which it was extracted was delivered on 17th October 2019 whereas the same was delivered on the 16th day of October 2019.

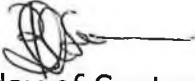
Furthermore, Mr. Simon submitted that the decree indicates that it was extracted from (PC) Civil Appeal No.1 of 2017, whereas the judgment from which it was extracted is Civil Case No.1 of 2017.

In conclusion of his submission Mr. Simon submitted that the decree is supposed to indicate the correct case number which is, Civil Case No. 1 of 2017 and correct date of the judgment which is, 16th day of October 2017. He implored this court to issue an order for correction of the errors pointed out herein above.

Having perused the ex-parte judgment and the decree, the subject of this application, I am in agreement with the learned advocate Simon that the decree has clerical errors. The case number and date of judgment indicated in the decree are not correct. As correctly submitted by Mr. Simon, the correct case number as per the judgment of this Court is Civil Case No.1 of 2017 not (PC) Civil Appeal No. 1 of 2017 and the correct date of the judgment is 16th October 2019 not 17th October 2019 that appears in the decree.

In the upshot, this application is granted. Pursuant to the provision of section 96 of the CPC, I hereby order that the correct case number in respect of the decree that was issued by this Court in Civil Case No. 1 of 2017 is Civil Case No. 1 of 2017 and the date of judgment is 16th October 2019. It is so ordered.




Dated this 3rd day of September 2021

B.K.PHILLIP

JUDGE