IN THE HIGH COURT OF TANZANIA

(MAIN REGISTRY)

AT DAR ES SALAAM

MISC.CIVIL APPLICATION NO.8 OF 2021

(ARISING FROM CIVIL APPEAL NO.02 OF 2020)

BETWEEN

THE ATTORNEY GENERAL ..... 1ST APPLICANT

ADVOCATES COMMITTEE ..... 2ND APPLICANT

VERSUS

FATMA AMAN KARUME ..... RESPONDENT

Date of Last Order:11/08/2021

Date of Ruling: 25/10/2021

RULING.

MAGOIGA, J.

This ruling is in respect of preliminary objections on points of law filed against the competency of applicants' application for leave to appeal to the Court of Appeal against the judgement and decree of the High Court in Civil Appeal No. 02 of 2020 originating from the decision of the Advocates Committee in Application No. 29 of 2019.

Upon being served with the chamber summons and accompanied affidavit, the respondent, through his learned counsel, one, Mr. Peter Kibatala,

formerly raised and filed two notices of preliminary objection to the effect that:

1. The application is defective for failure to annex copy of the applicant's letter requesting for proceedings, and for failure to include a copy of the relevant decree of the High Court;
2. The affidavit contains opinions and legal proposition in paragraph 4, 5, 6, 12 and 14 thus fatally defective and liable to be struck out;
3. That paragraph 2, 3, 4, 5, 6 and 7 contains hearsay;
4. The affidavit is fatally defective for having been attested by non existing Commissioner for Oaths;
5. The affidavit of Mr. George Mandepo, PSA is fatally defective for failure to indicate the deponent's religion. There is no affidavit/Oath in law without disclosure of religion/religious belief;
6. The affidavit is fatally defective in that the verification clause does not distinguish between information that are personally known to the deponent, versus those acquired from other sources;
7. The affidavit is fatally defective in that the Commissioner for Oaths does not show at what date he did the attestation;
8. Paragraph 13(v) is not verified: liable to be struck out;

9. The deponent not indicate his authority to swear the affidavit and pursue the application on behalf of the 1st and 2nd applicants: both he personally, and Solicitor General as an institution lack the requisite *locus standi;*

In both notices, the learned advocate for the respondent prayed that, the affidavit be expunged, and the application be struck out with costs.

When this application was called on for hearing of the preliminary objections on points of law, the applicants were enjoying the legal services of Messrs. George Mandepo, Musa Mbura and Samwel Lukelo, learned Principal State Attorneys and Messrs. Erigh Rumisha and Ayub Sanga, learned State Attorneys. On the other hand, the respondent had the legal services of Mr. Peter Kibatala. Both counsel for parties were ready for hearing.

Mr. Kibatala when invited to argue the preliminary objection told the court that he prepared a bundle of authorities which he submitted to the court to support his arguments on objections raised. Further, the learned advocate for the respondent, told the court that, he will argue all points raised save for point 3 in the second notice as such point No. 7 which was couched to the effect that ***"the affidavit is fataliy defective in that the Commissioner***

for Oaths does not show at what date he did the attestation." This point without much ado was marked abandoned.

The first limb of objection was couched that ***"the application is defective for failure to annex copy of the applicant's letter requesting for proceedings and for failure to include a relevant decree of the High Court."*** Arguing this limb of objection Mr. Kibatala told the court that, there is no requirement under section 5 (1) (c) of the Appellate Jurisdiction Act [Cap 143 R.E.2019] read together with Rule 45 (a) of the Court of Appeal Rules, 2009 for such requirement. However, Mr. Kibatala pointed out that, his arguments were based on the decisions in the cases of HAMMERS INCORPORATION COMPANY LIMITED vs. BOARD OF TRUSTEES OF CASHEWNUTS INDUSTRY DEVELOPMENT FUND, CIVIL APPLICATION NO.213 OF 2014, CAT (DSM) (UNREPORTED) in which an application that was not accompanied with the copy of the ruling or order was found to have been incompetent and led to be strike out. Also, was the case of REPUBLIC vs. MWESIGE GEOFREY TITO BUSHAHU, CRIMINAL APPEAL NO.355 OF 2014 CAT (BUKOBA) (UNREPORTED) in which the court held a preliminary point of law where there was lacuna in a statute using purposive approach interpretation of the statute.

On the above reasons, Mr. Kibatala implored this court to find merits in this point and proceed to strike out the application.

On the other hand, Mr. Mandepo arguing in rebuttal on this point was brief and focused to the point that, in their application they attached the judgement of the court and that under the cited provisions, no requirement of what Mr. Kibatala submitted. The learned Principal State Attorney distinguished the cases cited by Mr. Kibatala that, are applicable in the procedure before the Court of Appeal and not in the High court. According to Mr. Mandepo, what they did was enough and was at home and dry with the law for application for leave.

In rejoinder, Mr. Kibatala reiterated his earlier stance and argued further that, having formerly chosen to move the court by way of application, the applicants were legally required to comply with the law by attaching the order/decree and as such concluded that, the instant application is incompetent and is prone to be strike out on this point.

Having carefully listened to the rivaling arguments by learned counsel for parties, and cases cited and revisited the law on application for leave to the Court of Appeal before the High Court, I find this limb of objection, with due

respect to Mr. Kibatala, wanting of merits. The reasons I am taking this stance are not far-fetched. **One,** as rightly agreed between learned counsel for parties' that under the impugned provisions of the law cited in the chamber summons, no requirements for annexing a decree/ruling at High Court level, and rightly so in my own opinion, then going beyond the requirement of law will not only be inviting technicalities but amounts to overstretching the requirement of the law. Further, in my considered opinion, had the drafters of the law wanted annexing of decree to be a requirement they would have stated so in clear and an unambiguous terms. **Two,** the case cited by Mr. Kibatala, was dealing with an application in which no ruling or order was annexed as opposed to the situation we have here because in the instant application, the judgement in dispute was annexed, hence, I agree with Mr. Mandepo that, what they did was at home and dry with the law. **Three,** Even if the decree is not annexed here but in this application, the judgement, subject of appeal is annexed and as such this court is not denied an opportunity to study, and if need be, form its own opinion in the grant of the leave or not.

In the foregoing, therefore, this court finds and is increasingly inclined to hold that the instant point of objection is misconceived and same must be and is hereby overruled for want of merits.

This takes me to the second limb of objection that ***"the affidavit contains opinions and legal proposition in paragraphs 4, 5, 6, 12, and 14 thus fatally defective and liable to be struck out."*** Mr. Kibatala argues that, by the deponent using the words ' Fatuma Karume counsel for petitioner used unprofessional and disrespectful words against Hon. Prof. Kilangi, the Hon. Attorney General which was in violation of the Advocates (Professional Conduct and Etiquette) Regulations, 2018 are opinionated words and are not factual. As to paragraph 5, Mr. Kibatala argues that, the whole paragraph is opinionated and is against the rules of affidavit. Not only have that, but also paragraph 6 continued to use words such as unprofessional and disrespectful. As to paragraph 12, Mr. Kibatala argues that, to say leave is requires is a legal proposition and offends the rules to affidavits. As to paragraph 14, Mr. Kibatala argues that the phrase 'interest of justice demands that leave be granted is legal propositions, hence, offensive and in their totality invited this court to expunged all the disputed paragraphs.

Mr. Kibatala relied on the decisions in the cases of LALAGO COTTON GINNERY AND OIL MILLS COMPANY LIMITED vs. THE LOANS AND ADVANCES REALIZATION TRUST (LART) CAT (DSM) (UNREPORTED), ABDALLAH HEMED HAKIYAMUNGU vs. SELEMANI MARANDO, HC CIVIL APPEAL NO. 12 OF 2004, HC (DSM) (UNREPORTED), AND LEANDRI LEONARD TAIRO URASA (as a guardian of Lebati Charles Tairo Urasa and Leia Ikunda Tairo Urasa) vs. THE COMMISSIONER OF LANDS AND 2 OTHERS, MISC. LAND APPLICATION NO. 1 OF 2010 HC (DSM) (UNREPORTED) of which dealt with the affidavit and how should be drafted.

On the other hand, Mr. Mandepo argues in rebuttal that, the impugned paragraph 4, 5, 6, 12 and 14 were giving historical background of what transpired leading to this legal dispute in the proceedings before Principal Judge and no opinion is stated there. Further, Mr. Mandepo strongly stated that, they attached copy of the submissions to substantiate the historical background and denied strongly to have given an opinion.

In rejoinder, Mr. Kibatala reiterated his earlier submissions.

Having dutifully considered the rivaling arguments and what is contained in the impugned paragraphs, case laws cited and the law relating to affidavits,

in particular Order 19 rule 3 (1) of the Civil Procedure Code [Cap 33 R.E. 2019], I am inclined to find and hold that, paragraphs 4, 5, and 6 are narration of the genesis of this application and what transpired to the stage we are. However, I find the first part of paragraph 12 to be not problematic but the second part stating that ***'and that, unless leave is granted, the applicant cannot appeal to the Court of Appeal of Tanzania to challenge the impugned judgement and order of the High Court'*** are offensive for containing arguments. I, thus, hereby declare the second part of paragraph 12 to be expunged or be ignored when dealing with this application in case it survived all other remaining objections. Equally paragraph 14 is whole offensive for containing prayers and same is wholly expunged.

On the foregoing, the second limb of objection succeeds and fails to the extent I have explained above.

This takes me to the third limb of objection which was couched that ***"paragraphs 2, 3, 4, 5, 6 and 7 contains hearsay."*** Mr. Kibatala argues that, the deponent in these paragraphs did not lay foundation on the facts stated therein and prayed that the principle established in the cases of ALISTEDES TIBANYUNULWA vs. REGINA MABULA RUGEMALIRA, PROBATE

AND ADMINISTRATION CAUSE NO. 29 OF 2008, HC (DSM) (UNREPORTED) in which an affidavit which contained paragraphs by deponent which he had no personal knowledge was struck out for being defective. Also was the case of AUGOSTINO LYATONGA MREMA vs. THE ATTORNEY GENERAL AND 3 OTEHRS, MISC. CIVIL CAUSE NO. 59 OF 1995, HC (DSM) (UNREPORTED).

On the above reasons, Mr. Kibatala urged this court to strike out the offensive paragraphs from the court record.

On the other hand, Mr. Mandepo argues in rebuttal that, him, being the deponent instrumentally participated in all the said proceedings and all what is stated there was within his knowledge and needed no person to tell him. So, according to him, his verification was proper and no way can it be faulted.

In rejoinder, Mr. Kibatala reiterated his earlier submissions in chief.

Having heard and considered the rivaling arguments and cases cited, I am inclined to overrule this limb of objection. The reasons I am taking this stance are obvious; **one,** Mr. Mandepo argues in rebuttal that, he was instrumental in prosecuting all what is stated in the impugned paragraphs, a fact which was not challenged by any other evidence to the contrary. Mr.

Kibatala I believe equally participated in those proceedings, thus, if what Mr. Mandepo stated was not true he would have denied that fact. So, paragraph 1 of the affidavit, negate any argument that other paragraphs are hearsay. **Two,** the cases cited given the circumstances of this case, are distinguishable for in those cases the deponent deposed to facts which had no personal knowledge as opposed to this application.

That said and done, the third limb of objection must be and is hereby overruled.

Next is the fourth limb of objection which was couched that ***"the affidavit is fatally defective for having been attested by non-existing Commissioner for oaths."***

On this limb, Mr. Kibatala argues that Mr. Manase Wilson who attested the impugned affidavit in support of the application has never been an advocate in this country and implored the court to take judicial notice of this point, which according to him, is a pure point of law because any document prepared by unqualified person leads into illegality and of no use. In support of his position, the learned advocate for the applicant cited the case of TRIUMPHANT TRADE AND CONSULTANCY SERVICES LIMITED vs. AGGREKO

INTERNATIONAL PROJECTS LIMITED, COMMERCIAL CASE NO. 26 OF 2017 HCCD (DSM) (UNREPORTED) in which the court found the witness statement attested by unqualified person defective, but the defect, was curable and ordered a fresh witness statement be filed for interest of justice to be done and be seen to have been done.

On the other hand, Mr. Rumisha argues in rebuttal that in order for this court to ascertain if the attesting witness is unqualified or not, evidence is needed. According to Mr. Rumisha, any issue that needs evidence cannot be a preliminary objection on point of law. Further, reply by Rumisha was that, even if the court had to take judicial notice but whether a person is qualified or not are not matter to take judicial notice under that section. In support of his stance the learned Attorney cited the case of OTTU ON BEHALF OF P.L, ASSENGA AND 106 0THERS vs, AMI TANZANIA LIMITED, CAT (DSM) (UNREPORTED) which underscore the point that in the light of the famous MUKISA BISCUITS MANUFACTURING COMPANY LIMITED vs. WEST END DISTRIBUTOR LIMITED [1969] EA 696 any point that require evidence in ascertainment its truth ceases to be appoint of law.

Mr. Sanga, learned Attorney in further reply told the court that, this court can take judicial notice of the matter in dispute under section 59(1)(i) of the

Tanzania Evidence Act, [Cap 6 R.E. 2019]. According to Mr. Sanga, the Commissioner who attested the affidavit in dispute is qualified with roll no. 5005 and as such the case OTTU (supra) cited is distinguishable in the circumstances of this application.

In rejoinder, Mr. Kibatala maintained his submissions in chief and asked the court to use TAMS to establish the existence of the advocate.

Having carefully considered the rivaling arguments by parties learned counsel and revisited the relevant law, in particular, section 59 of the Tanzania Evidence Act, [Cap 6 R.E. 2019], which for easy of reference, I find it apposite to produce it here under. The said provision provides:

59. Facts of which court shall take judicial notice

(1) A court shall take judicial notice of the following facts–

(a) all written laws, rules, regulations, proclamations, orders or notices having notice the force of law in any part of the United Republic;

(b) the existence and title of societies or other bodies the registration of which has been notified In the Gazette;

(c) the course of proceedings of Parliament;

(d) all seals of all the courts of the United Republic duly established and of notaries public, and all seals which any person is authorised to use by any written law;

(e) the accession to office, names, titles, functions and signatures of the persons holding any public office in any part of the United Republic, if the fact of their appointment to such office is notified in the Gazette;

(f) the existence, title and national flag of every State or Sovereign recognised by the United Republic;

(g) the divisions of time, the geographical divisions of the world, and public festivals, feasts and holidays notified in the Gazette;

(h) the commencement, continuance and termination of hostilities between the United Republic and any other State or body of persons;

(i) the names of the members and officers of the court, and of their deputies and subordinate officers and assistants, and also of

all officers acting in execution of its process, and of all advocates and other persons authorised by law to appear or act before it.

(2) In all cases referred to in subsection (1) and also in matters of public history, literature, science or art, the court may resort for its aid to appropriate books or documents of reference.

(3) If the court is called upon by any person to take judicial notice of any fact, it may refuse to do so unless and until such person produces any such book or document as it may consider necessary to enable it to do so.

Reading between the lines and along the lines of the above provisions, and in particular sub sections (2) and (3) of section 59, the plain meaning of these sub sections were qualifying the provisions of subsection (1) of section 59. In my own considered opinion, the court is not to take judicial notice blindly but the court when invited to do so, is left with discretion to take the matter or require evidence from the books or record of that matter in dispute. This, by and large, waters down this point to be a point of law to that effect. In this application, parties' learned counsel lock horns that judicial notice need no evidence and that judicial notice gives room to look into evidence. The law is

clear as noted above allows for room to look for evidence, as such, in my own opinion, renders the point to be not a pure point of law.

Further guided by the Court of Appeal in its recent decision in the case of ALLIANCE INSURANCE CORPORATION LIMITED vs. ARUSHA ART LIMITED, CIVIL APPEAL NO.297 OF 2017 (ARUSHA) CAT (UNREPORTED) held that the issue whether or not the person who signed ...is an unqualified person or not, is matter which requires evidence to ascertain and as such does not qualify as pure point of law.

Guided by the above provisions of the law as demonstrated above and the above decision of the Court of Appeal on the matter, I am increasingly inclined to find and hold that, the fourth ground of objection is without any iota of being a point of law and same must be and is hereby overruled.

This takes me to the fifth ground of objection (which is ground one in the second notice of objection) couched that, ***"the affidavit of Mr. George Mandepo, PSA is fatally defective for failure to indicate the deponent's religion. There is no affidavit/Oath in law without disclosure of the religion/religious belief."*** Mr. Kibatala argues that, in the affidavit of Mr. Mandepo in support of the application, no disclosure of

religion in which the deponent belongs. The requirement to point to religion, according to Mr. Kibatala, is provided for under section 4 of the Oaths and Statutory Declaration Act, [Cap 34 R.E. 2019] which requires the person to state his religion. In support of this limb, Mr. Kibatala cited the case of HASSAN BACHO NASSORO vs. REPUBLIC, CRIMINAL APPEAL NO 264 OF 2020 (Unreported) in which it underscored the point how the oaths are taken and requirement to disclose religion.

The learned advocate for the respondent implored this court to find that, in the absence of the disclosure of religion there would be no known oath in law and strongly urged this court to find merits in this limb of objection.

On the other hand, Mr. Rumisha argues in rebuttal that, this limb of objection is baseless. According to him, the affidavit in dispute met all the requirements of the law and cited section 5 of Cap 34 which shows form of oath and affirmation and argued that no rule which require that a deponent has to state his/her religion. Mr. Rumisha pointed out that, once the word **'SWEAR'** in an affidavit is used then is for Christians and affirmed is for Muslims.

In the alternative, Mr. Rumisha, argues that, the defect, if any, is curable under section 9 of the Act, [Cap 34 R.E. 2019] because same do not go to the root of the matter. Mr. Rumisha went on to charge that, minor or trivial errors which do not go into the roots of the matter may be ignored. In support of his stance, the learned Attorney cited the case of DPP vs. DODOLI KAPUFI AND PETERSON, CRIMINAL APPLICATION NO.11 OF 2008 which stated the essential ingredients of any valid affidavit and as such mention of religion was not among the essentials.

Having heard and considered the rivaling arguments on this limb which was pegged on section 4 of the Cap 34 of R.E. 2019, I am inclined, without much ado, to hold that after going through the provisions of section 4 of the Act, I find that no such requirement under that provisions that an affidavit has to state the religion and that in case of failure renders the entire affidavit defective.

Not only that but also as correctly argued by Mr. Rumisha, the omission, if any, do not go to the root of the matter and same can be cured under section 9 of the Act. For easy of reference section 9 provides as follows-

9. Irregularity not to affect validity of an oath

Where in any judicial proceedings an oath or affirmation has been administered and taken, such oath or affirmation shall be deemed to have been properly administered or taken, notwithstanding any irregularity in the administration or the taking thereof, or any substitution of an oath for an affirmation, or of an affirmation for an oath, or of one form of affirmation for another.

Guided by the above provision, the fifth limb of objection has to fail and is hereby overruled.

Next is the sixth limb of objection which was couched that ***"the affidavit is fatally defective in fact the verification clause does not distinguish between information that are personally known to the deponent versus those acquired from other sources."*** Mr. Kibatala argues that failure of the deponent to distinguish between matters to his knowledge and other sources renders the affidavit defective. Mr. Kibatala reiterated his arguments in respect of limb No. 3 above.

On the other hand, Mr. Rumisha argues in rebuttal that, since the deponent has been at all material time instrumental in prosecuting this matter as such there is nothing to differentiate in his affidavit because all what he stated are

matters within his knowledge. He reiterated his argument on limb 3 in the first notice.

Nothing was rejoined to advance earlier submissions.

This limb of objection will not detain much of this court's time. The verification clause which is the basis of this objection does not bind the deponent to state mandatorily other facts in the affidavit if there is nothing to state the difference as was with the counter affidavit of Mr. Kibatala in this application. The stating of other sources is an alternative and not a mandatory requirement as argued by Mr. Kibatala.

On the foregoing, this limb has to fail and is hereby overruled.

Next is the seventh limb of objection couched that ***"paragraph 13(v) is not verified: liable to be struck out."*** Mr. Kibatala was brief to the point that sub paragraph 13 (v) of the affidavit was not verified and the record is clear same was not among the verified and pressed that it be struck out from the affidavit.

On the other hand, Mr. Lukelo argues in rebuttal that, the omission was human error that can be ignored or order the same to be rectified because even in the notice of preliminary objection Mr. Kibatala has referred the

applicants as Appellants and not applicants. According to Mr. Lukelo these are minor errors that do not go to the roots of the matter. The learned Attorney prayed that, the court be guided to order an amendment or rectification of the anomaly.

Nothing of importance was rejoined.

Having dutifully and dispassionately considered the rivaling arguments and the relevant paragraph, I noted that the said paragraph relates to grounds of appeal upon which the applicants intends to parade before the Court of Appeal in case leave is granted for its consideration. Further, I noted that the said ground relates to time limit in which the impugned judgement subject of this contention is to be challenged.

Indeed as noted and argued by Mr. Kibatala, the deponent itemized paragraph 13 to sub paragraphs but omitted to write item (v) in the verification clause. The immediate question is, what is the effect of this omission in the circumstances of this objection? According to Mr. Kibatala, same is to be expunged from the court record. Mr. Lukelo, on the other hand, argues that, the omission was accidental and was not actuated with any negligence. He pressed that this court allows the applicant to include by

way of rectification the impugned paragraph and proceed with the matter to next stage.

Having carefully listened to the learned counsel for parties', I noted that what is in serious contention is how verification is to be done. In my quick research, I failed to get any specific provisions under Cap 12 and Cap 34 [R.E.2019] on how and what verification is to be done. However, the only provision in our civil law is Rule 15 (2) of Order VI of Civil Procedure Code, which is very specific on how verification is to be done. For easy of reference, sub rule 15 of Order VI provides.

(2) the person verifying shall specify, by reference to the numbered paragraphs of the pleading, what he verifies of his own knowledge and what he verified upon information received and believed to be true. (Emphasis mine)

I must admit and I stand to be correct or wrong, from the wording of the above provision of the law (though was on pleading) which of course, I can candidly say, it extend to verification of affidavits, what is required of is the numbered paragraphs and not sub paragraphs. This court faced with similar objection in the case of MIC TANZANIA LIMITED HAMISI MWINYMVUA AND

AMBWENE YESAYA, MISC. CIVIL APPLICATION NO. 190 OF 2018 HC (DSM) (UNREPORTED), among others, this court held and observed that:-

> *"the law is clear what was envisaged under Order VI Rule 15(2) to be verified is* ***"paragraphs"*** *and not sub paragraphs, ... if the parliament had intended that the sub paragraphs to be specifically verified, I am sure the law could provide so in an unambiguous words."*

In this application, no doubt the deponent in the verification included paragraph 13 and sub paragraphs save sub paragraph (v) of that paragraph which was not mentioned. It is, therefore, my considered opinion that by including paragraph 13 the sub paragraphs whether mentioned or not did not offend any provisions of the law to be a point of objection.

That said and done this limb of objection has to fail as well and is hereby overruled.

This takes me to the last limb of objection that, ***"the deponent not indicated his authority to swear the affidavit, and pursue the application on behalf of the 1st and 2nd applicant: both He personally, and the Solicitor General as an institution lack requisite locus standi."*** Mr. Kibatala guided by the decision of GODBLESS LEMA vs.

MUSA HAMISI MKANGA AND 2 OTHERS, CIVIL APPEAL NO. 47 OF 2012 concluded that the deponent had no authority to swear the affidavit, and pursue the application and the office of the Solicitor General as an institution the requisite lacks locus standi.

On that note, urged this court to sustain all points of objection and have the application struck out with costs.

In rebuttal to the last limb of objection, Mr. Lukelo submitted that this is not a point of objection because in paragraph 1 of the affidavit the deponent introduced himself as Principal State Attorney in the office of Solicitor General office. According to Mr. Lukelo, the establishment Order, G.N. 50 of 2018, under section 4(1) (a) mentioned the duties of the Solicitor General allows State Attorney to discharged his functions as the deponent did.

On that note, the learned Principal State Attorney prayed and urged this court to overrule all points of preliminary objection with costs.

Nothing new to advance this limb of objection was rejoined by Mr. Kibatala.

Having dutifully considered the last limb of objection and the rivaling arguments for parties' learned counsel, I find this limb misconceived and is akin to fail. The reasons are abound. **One,** the learned advocate for the

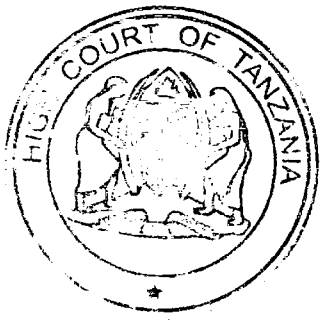
respondent is asking evidence in written form of authority of the deponent for swearing an affidavit, that alone dilute the whole objection to be not a point of law. **Two,** the learned advocate for the respondent did not cite any law which bars the deponent as Principal State Attorney from representing the applicants. **Three,** as correctly submitted by Mr. Lukelo, the authority of the deponent was derived from his employment of which by section 4 of G.N.50 of 2018 gives all Attorneys authority to represent the Attorney General and public institutions in any proceedings of civil nature. **Four,** to question the authority of Solicitor General in civil matters involving Attorney General is unfounded and cannot be appoint of law so to speak.

On that note, the last limb of objection is equally overruled.

That said and done and in the totality of the above, this court hereby overrule all the points of preliminary objections to the extent explained above and sustain part of the objection as explained above as well with no order as costs.

It is so ordered.

Dated at Dar es Salaam this 25th day of October, 2021.



S. M. MAGOIGA

JUDGE

25/10/2021