

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

AT DAR ES SALAAM

MISC. CIVIL APPLICATION NO. 540 OF 2021

CLARA EDSON KACHEWA

(LUKRESIA SILVESTA KACHEWA)APPLICANT

VERSUS

TANZANIA ELECTRIC SUPPLY COMPANY LIMITED

(TANESCO).....RESPONDENT

RULING

Date of Last Order: **03/11/2021**

Date of Ruling: **08/11/2021**

ITEMBA, J:

This application is seeking for an order of this Court to appoint one Lukresia Silvesta Kachewa as a next friend of Clara Edson Kachewa, her daughter who is suffering from a mental illness as a result of electrical shocking.

The application was brought by way of chamber Summons pursuant to Order XXXI rule 1, rule 3 (2), (3), rule 4(1), rule 5(1), rule 15 and section 95 of the Civil Procedure Code, [Cap 33 R.E: 2019]. The application is supported by an affidavit sworn by Ms. Lukresia Silvesta Kachewa who is the applicant.

The affidavit by the applicant avers that the applicant is the biological mother of Clara Edson Kachewa. That, the applicant's daughter has been a victim of electrical shock due to a supposed negligence by the

respondent which eventually had damaged her brain and has resulted to a mental incapacitation. Henceforth, the applicant is intending to institute a civil suit as a next friend of her daughter.

When the matter came for hearing, it was heard *ex parte* as prayed for in the Chamber Summons and Mr. Twarah Yusuph, learned advocate represented the applicant. The learned brother moved this Court to apply the provisions of **Order XXXI rule 15 of the Civil Procedure Code (Supra)** which allows a next friend to sue on behalf of a person of unsound mind. The central issue for determination is whether this Court should appoint the applicant as a next friend of Clara Edson Kachewa.

Having heard the submission by the applicant's counsel and upon keen perusal to the affidavit and all the annexures attached therein, and considering the fact that a person of unsound mind, who is unable to maintain a suit her own behalf, according to the requirement of the law, needs a next friend to act for on her behalf, I find this application to be meritorious and therefore the issue is disposed positively.

In the event, by virtue of **Order XXXI rule 1, 4 and 15 of the Civil Procedure Code (Supra)**, I hereby appoint Lukresia Silvesta Kachewa as a next friend of Clara Edson Kachewa.

It is ordered accordingly.



A handwritten signature in blue ink, appearing to read 'L. J. Itemba'.

L. J. Itemba

JUDGE

08/11/2021