

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(LABOUR DIVISION)
AT DODOMA**

LABOUR REVISION NO. 3 OF 2022

(Arising from the Ruling of the Commissioner of Mediation and Arbitration (CMA) for Dodoma Labour Dispute No. RF/CMA/DOM/162/2019 Dated 12th March 2020 before Hon. Matalis R, Arbitrator)

WADI INVESTMENT CO. LTD APPLICANT

VERSUS

ROBERT SEBASTIAN DAFFA AND 22 OTHERS RESPONDENT

5/9/2022 & 28/9/2022

RULING

MASAJU, J

The Respondents, Robert Sebastian Daffa and 22 others sued the Applicant, Wadi Investment Company Limited vide CMA/DOM/162/2019 in the Commission for Mediation and Arbitration (CMA) Dodoma Chambers. Before the matter was determined on merit, the Applicant unsuccessfully raised a Preliminary Objection on Point of Law hence the Revision Application made by Chamber summons under section 91(1) (a) (2) (b), 94(1) (b) (i) of the Employment and Labour Relation Act, 2004, Rules 24(1) (2) and (3) and Rule 28(1) (b) (c) and (e) of the Labour Court Rules, 2007 supported by Affidavit sworn by Godwin Beatus Ngongi, the Applicant's learned counsel.

The Respondents contest the Application. They filed a Counter Affidavit to that effect.

When the Applicant was heard in the Court on the 4th day of August, 2022, the Applicant was represented by Ms. Maria Ngailo, the learned counsel while the Respondents were represented by Mr. Jamal Ngowo, the learned counsel (TUICO).

The Applicant prayed to adopt the Affidavit to form part of her submissions in support of the Application in the Court. The Applicant added that the dispute is centered on the applicability, if any, of Rule 5(1) (2) (3) of Labour Institutions (Mediation and Arbitration) Rules, 2007 GN No. 64 of 2007. That, the Respondent's representative was not recognized by the Applicant by either names or signatures. That, only 8 names out of 22 Applicant names in support of the Representative Notice were recognized by the Applicant as per their names and signature in their employment contracts.

That, since the Applicant does not recognise the Respondents, let the Court revise and set aside the Ruling of the CMA. The Applicant prayed the Court to grant the Application accordingly alongside any other relief the Court may deem fit and just to grant.

The Respondents contested the Application by praying to adopt their Counter Affidavit to form part of the submissions against the Application in the Court. The Respondents added that the Application has raised a new issue regarding the names of the Respondents while before the CMA the issue was that the Respondents signed through signatures while some of them had signed by thumb print in their employment contracts.

That, the Application is a delaying techniques. The Respondents prayed the Court to dismiss the Application in its entirety for want of merit with costs.

That is what was shared by the parties in support of, and against the Application in the Court.

The Applicant's main concern in her preliminary objection on point of law was that some of the Respondents' signatures in the Representative Notice did not match the ones in their employment contracts. That, in their employment contracts they had signed by thumb print while in the Representation Notice they signed by their alleged signatures. That, this is contrary to Rule 5 (1) (2) (3) of the Labour Institutions (mediation and Arbitration Rules, 2007.

The Court is of the considered position that, as well decided by the trial Tribunal this is purely a matter of fact which needs evidence to prove the allegations that the Respondents did not appoint their Representative.

However, neither of the Respondents had so far complained before the trial tribunal not to have appointed the alleged Representative.

This is abuse of legal process hence delaying the Application from being heard on merit. After all Rule 50 of the Labour Court Rules, 2007 provides that no appeal, view or revision shall lie in interlocutory or incidental decisions or orders, unless such decision has the effect finally determining the dispute.

That said, the Application is hereby dismissed for want of merit. The original record of the trial Tribunal shall be remitted back to the trial Tribunal

for the dispute to be determined on merit accordingly. The parties shall bear their own costs.



GEORGE M. MASAJU

JUDGE

28/9/2022