

**IN THE HIGH COURT OF TANZANIA  
(MAIN REGISTRY)  
AT DAR ES SALAAM**

**MISC. CIVIL APPLICATION NO. 1 OF 2022**

**IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR  
ORDERS OF CERTIORARI AND PROHIBITION  
AND  
IN THE MATTER OF THE WILDLIFE CONSERVATION ACT. 2009 AND  
WILDLIFE CONSERVATION (TOURIST HUNTING) REGULATIONS,  
2015 AND ITS AMENDMENT OF 2019**

**BETWEEN**

**MWANAUTA COMPANY (T) LIMITED.....APPLICANT**

**VERSUS**

**CONSERVATION COMMISSIONER,  
TANZANIA WILDLIFE MANAGEMENT AUTHORITY...1<sup>ST</sup> RESPONDENT  
THE MINISTER,  
MINISTRY OF NATURAL RESOURCES & TOURISM...2<sup>ND</sup> RESPONDENT  
THE ATTORNEY GENERAL.....3<sup>RD</sup> RESPONDENT**

**RULING**

**25 Jan & 28 Feb 2022**

**MGETTA, J:**

Through a legal service of Mr. Abdulaziz S. Baisi, the learned advocate, the applicant namely Mwanauta Company (T) Limited, on 11/01/2022 filed an application for leave to apply for judicial review for the order of certiorari to quash the decision made on 28/12/2021 by the Conservation Commissioner, Tanzania Wildlife Management Authority (the 1<sup>st</sup> respondent) and the Minister, Ministry of Natural Resources and Tourism (the 2<sup>nd</sup> respondent), by inviting the public to attend public

auction of Hunting Blocks namely Rungwa Mwamagembe GR (henceforth the Hunting Block) allocated to the applicant; and for the order of prohibition to inhibit the 1<sup>st</sup> and 2<sup>nd</sup> respondents from auctioning the Hunting Block allocated to the applicant. The application is made under **rules 5(1), (2), (3) & (6) and 7(5) of the Law Reform (Fatal Accidents and Miscellaneous Provisions) (Judicial Review Procedures and Fees) Rule, 2014** (henceforth the 2014 Rules). The application is supported by the affidavit affirmed by Haruna Saleh Mwanauta, the Director of the applicant and is accompanied by the statement.

Along with filing counter affidavit, the respondents through the State Attorney lodged a notice of preliminary objections in which the following objections were raised:

1. That the application is frivolous and vexatious.
2. That the application is untenable in law as it falls short of the prerequisite conditions for seeking leave for judicial review as it lacks a decision which is subject to judicial review.
3. That the application is untenable in law for being over taken by event.

When the matter was called on for hearing of the preliminary objection, through their respective counsel, the parties requested, the

request which I granted to argue the application by way of written submissions. In supporting the preliminary objections, Mr. Deodatus Nyoni, the learned principal State Attorney for the respondents filed his written submission; and in opposing, Mr. Abdulaziz S. Baisi, the learned advocate filed written submission on behalf of his client, the applicant. I commend the learned counsel for their researchable submissions they filed herein.

Having gone through the records of this application, I have first decided to deal with the 2<sup>nd</sup> preliminary objection and asked myself a question: what decision this application for leave relates. In his written submission, Mr. Nyoni stated there is none. That's why he raised the preliminary objection that this application is untenable in law because it falls short of the prerequisite condition for seeking leave to apply for judicial review. The applicant has not mentioned the decision which would be subject to judicial review. He just mentioned the date the impugned decision was made by the first two respondents. To him, Mr. Nyoni argued, that was not enough. He cited to me the decision in the case of **Pavisa Enterprises Versus The Minister for Labour Youth Development and sports & Another**; Misc. Civil Cause No. 65 of 2003 (High Court) (Dar es Salaam) (unreported) whereby this court observed amongst other things, that the applicant is required to show decision and

sufficient interest in that decision to which the application relates and to what extent he has been affected with such a decision to be impugned.

According to Mr. Nyoni, it is not in dispute that the applicant is hunting company and holder of hunting block certificate. The applicant's right is to conduct tourist hunting activities within the hunting block allocated to him and within the period in which his certificate is valid and also participating in hunting activities. This is as per **rule 19(1) of the Wildlife Conservation (Tourist Hunting) GN No. 414 of 2015**. Mr. Nyoni submitted further that the applicant has failed to attach or show the decision of revocation of his Hunting Block certificate granted to him which would warrant the present application for leave. He argued in absence of such decision the present application is untenable in law and the remedy available to this court is to dismiss the application.

In his prayer, the applicant is seeking for leave to file an application for orders of certiorari in order to move this court to quash the decision made on 28/12/2021 by the 1<sup>st</sup> and 2<sup>nd</sup> respondents of inviting the public to participate in public auction of the hunting block that was allocated to him; and also to prohibit the 1<sup>st</sup> and 2<sup>nd</sup> respondents from auctioning his hunting Block until the expiry of his hunting tenure on that Block.

The perusal of the records has revealed that no decision is attached. I don't see the decision of the 1<sup>st</sup> and 2<sup>nd</sup> respondent that have affected

him despite the fact that he had mentioned only the date of such impugned decision ie 28/12/2021. Moreover, through the submission of his advocate, the applicant admits that there is no decision that has revoked his Hunting Block Certificate.

With due respect, the learned advocate has failed to tell or show the court the decision of 28/12/2021 relating to what, despite the fact that it is not attached to his application. True, he has cited that under **rule 4 of 2014 Rules** a person whose interests have been or believe will be adversely affected by any act or omission, proceeding or matter, may apply for judicial review. I agree with that legal position. For purposes of emphasis, no decision that was made by the 1<sup>st</sup> and 2<sup>nd</sup> respondents have adversely affected him. In his application, the applicant has failed to identify acts, omissions and matter which are likely to affect his rights and interest. Failure to show such decision to which this application to which this application for leave relates, I am compelled to be in agreement with the submission of Mr. Nyoni that this application is untenable in law.

This ground alone suffices to dispose of this matter without considering the remaining preliminary objections (1<sup>st</sup> and 3<sup>rd</sup>) as tackling them would amount to wasting time of the court.

In the upshot, for the reasons stated herein above, I find the application for leave to apply for judicial review without merit as the

applicant has failed to establish a *prima facie* case. I do accordingly dismiss it. Each party has to bear its own costs.

It is so ordered.

**Dated at Dar es Salaam** this 28<sup>th</sup> day of February, 2022.



**J. S. MGETTA**  
**JUDGE**

**COURT:** This ruling is delivered today this 28<sup>th</sup> February, 2022 in the presence of Mr. Dominick Daniel, the learned advocate for the applicant and in the presence of Mr. Ayoub Sanga, the learned state attorney assisted by Ms. Mercy Mrutu, the learned senior state attorney and Mr. Steven Mwamasenjele, the learned state attorney, all for respondents.



**J.S.MGETTA**  
**JUDGE**  
**28/02/2022**

