

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
(IRINGA SUB REGISTRY)  
AT IRINGA**

**REVIEW CAUSE NO. 2 OF 2022**

*(Arising from Land Appeal No. 23/2021 the High Court of Tanzania at Iringa before  
Hon. S.M. Kalunde, J. Original application No. 79/2021 of the District Land and  
Housing Tribunal of Iringa at Iringa before Hon. A.J. Majengo, Chairman)*

<b>BEN MAHENG</b>	.....	<b>APPLICANT</b>
<b>VERSUS</b>		
<b>MUCOBA BANK PLC</b>	.....	<b>1<sup>ST</sup> RESPONDENT</b>
<b>LUCAS JAILO MIFWA</b>	.....	<b>2<sup>ND</sup> RESPONDENT</b>
<b>EVELINA MAIKO HAHEYA</b>	.....	<b>3<sup>RD</sup> RESPONDENT</b>
<b>TWENS AUCTION MART CO.</b>		
<b>LTD &amp; COURT BROKERS</b>	.....	<b>4<sup>TH</sup> RESPONDENT</b>

**RULING**

29<sup>th</sup> May & 30<sup>th</sup> May, 2023

**I.C. MUGETA, J:**

This is an application for review. The objection raised by counsel for the respondent is that review cannot be filed against a decision that confirms that the decision of the lower court is interlocutory for being barred by section 78(2) of the Civil Procedure Code. I agree the decision of the lower court might be interlocutory but the decision of this court is not because it rests the proceedings in this court. The **Zanzibar Electricity Corporation V. Infratech Ltd & Another**, Civil Appeal No. 100 of 2021 Court of Appeal – Zanzibar (unreported) which the learned counsel also



cited to support the argument is irrelevant because that decision concerned interlocutory order not being appealable.

Another objection raised is that the memorandum of review is bad because it does not contain prayers. Counsel for the respondent submitted that as a memorandum of review has to take a form of a memorandum of appeal, it ought to contain prayers like the memorandum of appeal. However, he failed to cite any law which requires a memorandum of appeal to contain prayers. He said that is a matter of practice and for that matter, I find no merits in this objection because the memorandum of review as it is has not violated any provision of the law.

The third objection is that the application is based both on points of law and fact, therefore, incompetent as it does not disclose any error apparent on the face of the record. With respect, this issue cannot be determined as a preliminary objection. The supposition advanced ought to be the finding of the court upon hearing the application on merits.

In the fine, all three objections are overruled with costs.



  
**I. C. MUGETA**

**JUDGE**

**30/5/2023**

**Court:** Ruling delivered in chambers in the presence of Maurice Mwamwenda, advocate for the applicant and Emmanuel Chengula, advocate for the respondent.

**Sgd. I. C. MUGETA**

**JUDGE**

**30/5/2023**