IN THE HIGH COURT OF TANZANIA

(MAIN REGISTRY)

AT DODOMA

MISCELLANEOUS CIVIL CAUSE NO. 7109/2024

EMMANUEL A. KIHAKO .... 1ST APPLICANT

MATUKU M. MUGETA..2ND APPLICANT

VERSUS

CHAMA CHA WAALIMU ....RESPONDENT

RULING

22nd April, & 9th May, 2024

Kagomba, J

This is a ruling on a preliminary objection raised by the respondent against the applicants' application for leave to apply for orders of *certiorari* and *mandamus.*

The applicants' ultimate desire is to challenge the meeting, agenda, proceedings and resolutions of the national council of the respondent held in Dodoma between 15th and 17th February, 2024. They are not happy with the deliberations on the question of leave without pay of the then respondent's General Secretary, one Maganga M. Japhet. They are also not

happy with the respondent's resolution to review some previous resolutions of the said council. The applicants are also desirous to challenge the decision of the respondent's national council passed on 18th June, 2023. To the applicants' mind, the addition of the above agenda in the impugned meeting was done in contravention of the constitution and regulations of the respondent, and violated the principles of natural justice.

The specific concerns that prompted the applicants to file their application for leave are; denial of right to be heard on part of the said General Secretary; denying the respondent's national council an opportunity to prepare and propose the agenda which were added during the meeting; the chairperson turning herself into a judge of her own cause; bias on part of the chairperson; illegalities pertaining to the conduct of the impugned meeting as well as *ultra vires* acts regarding the same.

However, as intimated above, before the leave application can be heard, the court is confronted with five points of law, in this preliminary objection, to the effect that:

1. The applicants have no *locus standi* to pursue this application.

2. This application is bad in law for being filed prematurely before exhausting internal remedies, hence this Honourable Court lacks jurisdiction to try it.
3. The application does not disclose the cause of action against the respondent.
4. The statement is bad in law for containing a defective verification clause.
5. Affidavits in support of the application are defective for containing arguments, conclusion and extraneous matters.

To argue the above points, Mr. George Vedasto and Mr. Justus Magezi, both learned advocates represented the respondent, while Mr. Elias Machibya, also a learned advocate, appeared for the applicants.

With regard to the first limb of the objection, the contention by Mr. Vedasto is that while the law recognizes that only a person whose rights or interests have been interfered with has *locus standi* to sue, the applicants have not shown, in their affidavits, possession of such a standing. The decisions of the Court of Appeal in **Chama cha Wafanyakazi Mahotelini na Migahawa Zanzibar vs. Kaimu Mrajis wa Vyama vya**

Wafanyakazi na Waajiri Zanzibar, Civil Appeal No. 300 of 2019 and in **Peter Mpalanzi vs. Christina Mbaruka**, Civil Appeal No. 153 of 2019, were referred to for definition of *locus standi* and what it takes to have it. Mr. Vedasto buttressed his contention by making further reference to the case of the **Gervas Masome Kurwa vs. The Returning Officer & Others** [1996] T.L.R 320.

Expounding the first point of objection, Mr. Vedasto itemized the following three aspects of the applicants' discontentment, as can be decerned from their affidavits, and how they delude the applicants' *locus standi*. **Firstly**; the advice of the respondent's national council to Mr. Maganga M. Japhet requiring him to submit a letter from his employer showing that he was granted leave without pay, if he were to continue to be recognized as the General Secretary of the respondent. On this point, it is Mr. Vedasto's argument that since the applicants are not the said Maganga M. Japhet, they cannot lawfully claim to have *locus standi* in the matter that concerned him.

Secondly; the postponement of the celebration of the 30th anniversary of the respondent which were to be held in Mwanza, in 2023

allegedly done by the respondent's national council. On this discontentment, it is Mr. Vedasto's contention that the celebrations were postponed way back in 2023, and the said national council only approved the report on the postponement. He wondered how such an approval of postponement was a concern to the applicants, so as to assume *locus standi* over the matter.

Thirdly, that some of the respondent's members who had disciplinary penalties were already pardoned, but the impugned meeting resolved to review such an amnesty. On this discontentment, Mr. Vedasto's argument is that the applicants' affidavit fell short of showing how that resolution breached their rights and interests for them to have *locus standi*.

He wound up his submission on this first limb of the objection by praying the court to dismiss the application, with costs, for applicants' failure to establish their *locus standi* in this matter.

On the second ground of the objection concerning prematurity of the application and non-exhaustion of internal remedies, two arguments were raised by Mr. Vedasto. **Firstly**, that since the dispute involves the respondent who is a registered organization, and concerns non-compliance with its constitution, it is the Labour Court which has jurisdiction to entertain

such a matter under section 53(1) of the Employment and Labour Relations Act, 2004 (ELRA). And **secondly**, according to the provision of section 53(2) of ELRA, before the Labour Court can hear an application of this nature, it shall satisfy itself that the organization's internal procedures have been exhausted.

According to Mr. Vedasto, the affidavits in support of the application do not show that the applicants exhausted the respondent's internal procedures before filing their application. The decisions of this Court in **Joram Meagie Lukumay vs. Minister of Constitution and Legal Affairs & Hon. Attorney General**, Misc. Civil Cause No. 24 of 2021, and **Parin A.A Jaffer and Another vs. Abdulrasul Ahmed Jaffer and Two Others** [1996] T.L.R 110 were referred to in this regard.

It was Mr. Vedasto's further argument that according to article 22.1 (a) of the respondent's constitution, the general meeting is the top decision making organ of the respondent, and according to article 7.1 (c) of the said constitution, every member has a right to challenge a decision in the higher committee of the respondent. Basing on such provisions, and upon revisiting the averments in paragraph 25 and 26 of Mr. Japhet's affidavit where he

depones that he intended to challenge the decision of the national council in the general assembly. Mr. Vedasto's view is twofold; **one;** since the impugned decision was made by the respondent's national council, the applicants could still challenge the same at the general assembly. **Two;** the aggrieved person, who is Mr. Maganga M. Japhet, knows clearly where to challenge the impugned decision, hence there is still a room to settle the matter within the respondent's dispute settlement mechanism.

It is Mr. Vedasto's conclusion, on this point, that the application has been filed in a wrong Court and prematurely, hence this Court is denied jurisdiction. To support his contention, he cited another decision of this Court in **Suleiman M. Komba v. Chama cha Waalimu Tanzania**, Misc. Application No. 118 of 2022.

Turning to the third point of the objection concerning non-disclosure of a cause of action, Mr. Vedasto contends that no facts have been deponed by the applicants to establish their cause of action against the respondent, as they have not shown anywhere how the applicants have been affected by the actions of the respondent. Citing the case of **John Mwombeki Byombalirwa vs Agence Maritime International (Tanzania) Ltd.**

[1983] T.L.R. 1, as to what cause of action entails, Mr. Vedasto prays the Court to strike out the application based on this ground.

Mr. Justus Magezi, submitted on the remaining two points of objections for the respondent. Before doing that, he had some addition to make to bolster the submission made by his colleague on applicants' lack of cause of action.

According to him, paragraphs 22 and 24 of the affidavit of the Mr. Emmanuel A. Kihako, and paragraph 23 and 25 of the affidavit of Mr. Matuku M. Mugeta, reveal that the two applicants have been moved by a threat of loss of their membership in the respondent organization. He contends that since such threats came from Mr. Maganga M. Japhet, then the applicants ought to have proceeded against the said Mr. Japhet and not the respondent who had done nothing against their membership.

Turning to the fourth point of the preliminary objection, Mr. Magezi submitted that the verification clause in the statement supporting the application is defective and bad in law on account of being verified by three applicants while, in this application, there are only two applicants. He named the three signatories who verified the said statement as Maganga M. Japhet,

Matuku M. Mugeta and Emanuel A. Kihakoa, pointing out that the first one was not among the applicants.

It is Mr. Magezi's contention that since the purpose of a verification clause is to give authenticity to the averments therein, when the same is defective, even what is averred cannot be authentic. He therefore urged this Court strike out the application, with costs.

Lastly, on the fifth point of objection, Mr. Magezi submitted that the affidavits in support of the application are defective for containing arguments, conclusions and extraneous matters. Specific words are; "as such" and "since" which, according to Mr. Magezi, connote conclusions. He also blamed the reading: "I request the general meeting to terminate the membership of all members of the national council of the respondent for violation of the constitution". According to him, that is an opinion.

The learned counsel also blamed the statement that: "If the general meeting finds that they violated the constitution, their membership should be terminated", for expressing deponent's opinion, and not a fact.

Mr. Magezi further drew Court's attention to paragraphs 7, 8, 10, 15, 16, 18, 22 and 23 of Mr. Emmanuel Kihako's affidavit as well as paragraphs

7,9,15,16,17,19,23 and 24 of the affidavit of Mr. Matuku M. Mugeta. His contention is that all these paragraphs contain legal arguments, conclusion, and extraneous matters contrary to the provision of Order XIX rule 3(1) of the Civil Procedure Code (CPC) [Cap 33 R.E 2029] and section 62(1) (a), (b) (c) and (d) of the Law of Evidence Act [Cap 6 R.E 2022].

He wound up his submission by citing the famous case of **Uganda vs. Commissioner of Prisons, Ex-parte Matovu** [1966] E.A 514 for a contention that affidavit should only constitute facts deposed on one's own knowledge. He prayed the court to find merits in the fifth limb of the preliminary objection, and dismiss the application with costs.

Responding to the above submissions, Mr. Elias Machibya, learned Advocate for the applicants started by alerting the court that most of the arguments made by his counterparts were not on pure points of law. He cited the celebrated case of **Mukisa Biscuits Manufacturing Company Ltd. vs. Westend Distributors Ltd.** [1969] E.A 396 for a contention that a preliminary objection should be based on pure points of law. He faulted the objection on *locus standi* and for cause of action for bringing up matters which should be considered when determining the leave application as per

the case of **Halima James Mdee & 18 Others vs. Registered Trustees of Chama Cha Demokrasia na Maendeleo**, Misc. Civil Cause No. 27 of 2022, High Court Main Registry at DSM.

Replying to the specific argument that the applicants did not show how they were affected by the decision or advise to Mr. Maganga M. Japhet to submit the letter granting him leave without pay, Mr. Machibya contended that such a call was tantamount to asking for a proof, which does not arise when arguing points of law. He, nevertheless, added that the affidavits of the applicants clearly showed that they have interests in this matter.

Clarifying on the above, the learned counsel clung to the facts, as deponed, that the first applicant is a member of the respondent; a leader at the district and regional level who participated in the meeting of the national council of the respondent. According to him, the applicants narrated the flaws committed during the meeting, hence they possess a vast range of interests in the application.

To augment his contention, the learned counsel cited the case of **The Legal and Human Rights Centre & 2 Others vs. The Honourable Attorney General** [2006] T.L.R 240 for a contention that *locus standi* is

vested in every person, whether individual or corporate whose interest have been violated.

Replying to his counterpart's arguments in respect of the postponement of the 30th anniversary, Mr. Machibya found no point of law worth arguing about. According to him, his clients have indicated in their affidavits the flaws committed during the impugned meeting such as introduction of the new agenda items and biasness on part of the chairperson, hence the applicants have *locus standi.*

As regards to Mr. Vedasto's arguments pertaining to the respondent's decision to review its previous decision, it is Mr. Machibya's reply that his clients were not given even an opportunity to speak, hence they have interest in the matter. According to him, the fact that one of the points of objection requires the applicants to exhaust local remedies, implies that the applicants have *locus standi.* He prayed the Court to dismiss the first point of preliminary objection for being misconceived.

Replying to the submission on the second point of the preliminary objection, Mr. Machibya firstly prayed the Court to note that Mr. Vedasto had introduced a new ground of objection when he cited the provision of section

53(1) of ELRA to argue that jurisdiction on this matter lies in the Labour Court. He submitted that this point was not envisaged in the notice of preliminary objection. For this reason, he opted to confine himself to the question of non-exhaustion of local remedies.

According to Mr. Machibya, the contention that the applicants had a recourse to the general assembly under the respondent's constitution, did not consider the fact that under the same constitution, the power to interpret the constitution is vested in the national council and not the general assembly. Hence, according to him, that contention is unfounded.

He emphasized that his clients came to this Court to seek redress against the conduct of the meeting, which is not appealable, and not the merit of the decision made. For this reason, he distinguished the cases of **Joram; Jaffar** and **Suleiman Komba** for being inapplicable to the current situation. He also cited the case of **Omary Shaban Nyambu vs. Chief of Defence Forces & 2 Others**, Misc. Application No, 35 CF 64 of 2023 for a contention that a preliminary objection that an application was filed prematurely was considered not a pure point of law and the Court dismissed that objection. He beseeched the Court to dismiss the objection with costs.

On the third ground of objection that the application does not disclose a cause of action, Mr. Machibya conceded to the principle of law stated in the cited case of **Mwombeki** (supra), but differed with the assertion that his clients' affidavits do not disclose the cause of action. According to him, the deponed facts that the chairperson had interest in the added agenda; the applicants were not allowed to speak, and the secretary of the meeting was arrested in the meeting signify plicants have a cause of action.

The learned counsel does not buy the additional submission by Mr. Magezi that the applicants were threatened by Maganga M. Japhet. According to him, that is Mr. Magezi's own opinion.

Citing the case of **Musanga Ngandwa vs. Chief Joseph Wanzagi & 8 others** [2006] T.L.R 351, Mr. Machibya was of the view that since a cause of action is the sum total of those allegations upon which the right to relief claimed is founded, his clients do possess the same.

He prayed the court to dismiss this third ground of objection for lacking merits.

As to the fourth ground of the preliminary objection which impugns the statement supporting the application for being bad in law on account of

its defective attestation clause, Mr. Machibya's reply was, firstly, to criticize the objection for non-citation of any law allegedly breached.

However, he conceded that the verification clause of the said statement is signed by three persons, including the applicants. In his views, since there is no allegation that the applicants did not verify and sign the statement, the other person who signed the statement, while not a party, be ignored, in which case the statement will be valid. He cited the decision of this Court in **Kiganga & Associate vs Universal Gold NL** [2000] T.L.R 24, for a contention that a defective verification clause can be cured by amendment vide the overriding principle. He, therefore, deems this objection misconceived, as the error spotted is not fatal.

Replying in respect to the fifth and last ground of objection, Mr. Machibya found no faults in the three affidavits filed by the applicants. In his view, the same contain no conclusion, opinions or extraneous matters, as alleged. He argues that in order to get the context of a statement, one has to read the entire lot and not to isolate some words. According to him, words alleged to connote conclusion, were facts, and what is alleged to be an opinion is an action the deponent determined to take.

He also opposed the assertion that paragraphs 7, 8, 10, 15, 16, 18, 22 and 23 of Emmanuel Kihako's affidavit and paragraphs 7, 9, 15, 16, 17, 19, 22, and 24 of Mugeta's affidavit contained arguments, conclusions and extraneous matters. He criticized his counterpart for not showing how these cited paragraphs are bad in law.

The learned counsel found solace in **Gervas Shayo & Another v. Muhimbili University of Health and Allied Sciences** [2013] T.L.R 230 where an affidavit containing arguments was held to be proper in law, hence the case of **Ex-parte Matovu** was inapplicable. He wound up by submitting that the allegations in this ground are misconceived.

In his rejoinder, Mr. Vedasto by and large reiterated his submission in chief with regard to *locus standi*. To him, there is no dispute that the applicants were members and leaders in the respondent organization and who attended the impugned meeting, but they have not demonstrated how they were affected in order to get redress from the Court.

The learned counsel concurred with the principle of law stated in vase of the **Legal and Human Rights Centre case** but rhymed that the applicants had not demonstrated how their interest were violated.

Concerning non-attachment of the decision which the applicants want the court to quash and set aside, Mr. Vedasto was emphatic that that was a very important document to be attached to the leave application and the opportunity to do so was now.

Mr. Vedasto was also critical of the argument that the applicants had *locus standi* merely because they were not allowed to speak at the impugned meeting. To him, this argument is incorrect as they ought to demonstrate how the decision reached without their opinion have affected their interests.

Concerning Mr. Machibya abstaining from responding to the new point of objection concerning the jurisdiction of the Labour Court in this matter, Mr. Vedasto's rejoinder is that non-reply does not change the law or make the Court blind on the provision of the law.

On the contention that the final organ of the respondent to interpret the constitution is the national council of the respondent, Mr. Vedasto's rejoinder is that the essence of this dispute is not on interpretation of the respondent's constitution but addition of the agenda and conduct of the impugned meeting. He was emphatic that the application was filed prematurely.

Mr. Vedasto refuted the allegation that the chairman had interest in the newly added agenda, arguing that the applicants' affidavits do not show which are those interests.

While conceding that the affidavits contain facts of what transpired during the meeting, the same do not show how the applicants were affected. According to Mr. Vedasto, the same silence in the affidavits can be observed with regards to the arrest of the General Secretary, hence no cause of action was disclosed.

On his part, Mr. Magezi was emphatic that the 1st, 2nd and 3rd points of objection are pure points of law, because they are from the facts pleaded by the applicants.

He reiterated his submission in chief with regards to the third point of objection, adding that the applicants did not complain anywhere until when Mr. Maganga M. Japhet threatened them to request termination of their membership.

Again, the learned counsel reiterated his submission in chief with regard to the 4th point of objection. He explained that verification in the statement has been done by non-existing party or parties who are not the

applicants. That the statement is verified by Mr. Maganga M. Japhet who is referred to as the first applicant in the verification clause, but was in fact not a party. Also, he clarified further that the statement is verified by Emmanuel Kihako who is identified as a third applicant while in this case there is no a third applicant.

The learned counsel was emphatic that verification of pleadings is a matter of law; the verification clause is defective and the application is invalid for such defect is not curable.

Regarding the fifth point of objection, he also maintained his submission in chief and prayed the Court to find merit in all the five points of objections, and proceed to dismiss the application with costs.

The above represent the depth of the rival submissions whereby five main issues emerge for determination as follows: -

1. Whether the applicants have no *locus standi* to pursue this application.
2. Whether the application is bad in law for being filed prematurely before exhausting internal remedies, hence denying this Court jurisdiction to try it.

3. Whether the application does not disclose the cause of action against the respondent.
4. Whether the statement is bad in law for containing a defective verification clause.
5. Whether the affidavits in support of the application are defective for containing arguments, conclusion and extraneous matters.

A glance at the list above reveals that the first three issues touch on the jurisdiction of the Court. It's my view, however, that determination of the second issue needs to be prioritized in so far as it directly questions the jurisdiction of this Court. It is trite law that where jurisdiction of the court is put to question, such an issue or issues need be disposed first. The reason is, if the Court reaches a decision without having requisite jurisdiction, the same will be a nullity. The importance of determining jurisdiction as a priority was well-articulated by the Court of Appeal in **Fanuel Mantiri Ng'unda vs. Herman M. Ng'unda & others**, Civil Appeal No. 8 of 1995, where it stated:

> *"The question of jurisdiction for any court is basic; it goes to the very root of the authority of the court to adjudicate upon cases of different nature.... (T)he question of jurisdiction is so fundamental that courts must as a matter*

of practice on the face of it be certain and assured of their jurisdictional position at the commencement of the trial....It is risky and unsafe for the court to proceed on an assumption that court has jurisdiction to adjudicate upon the case".

It is also the general position of the law, as stated by this Court in **Parin A.A Jaffar & Another vs. Abdulrasul Ahmed Jaffar and Two Others** [1996] T.L.R 110, that:

"Where the law provides extra-judicial machinery alongside a judicial one for resolving a certain cause, the extra-judicial machinery should, in general, be exhausted before recourse is had to the judicial process".

This position was long stated in an English case of **R. v. Inland Revenue Commissioner ex p. Preston** [1985] A.C 835, at 852 as per Lord Templeman, that judicial review should not be granted where an alternative remedy is available. It is with these established legal principles in mind that I start determining the second issue.

When submitting on prematurity of the application and non-exhaustion of internal remedies, Mr. Vedasto raised two arguments: Firstly,

that it is the Labour Court which has jurisdiction to determine this matter. He referred to the provision of section 53(1) of ELRA. This ground was quickly attacked by Mr. Machibya for being an alien ground altogether, as it was not raised in the notice of preliminary objection. I agree with Mr. Machibya's view. This ground was introduced as a surprise to the applicants, and the Court cannot condone such a surprise for it would impair the principle of fair hearing.

The second argument raised by Mr. Vedasto, was to the effect that the applicants did not demonstrate in their affidavits if they exhausted the internal dispute settlement procedures of the respondent organization.

In my perusal of the respondent's constitution, which is annexed to the respondent's counter affidavit, I realized that article 38 provides a room for the applicants to engage the national council of the respondent for determination of their grievances. I shall demonstrate hereunder.

Reading with clear eyes the affidavits filed in support of the application, and while momentarily switching off my mind from considering the objection that they contain arguments, conclusion, extraneous matters and defective attestation clause, I could easily realize that the epicenter of this dispute lies

in what was done or not done by the chairperson of the meeting of the national council of the respondent. All the three deponents have minced no words on how the said chairperson mishandled the meeting. She is repeatedly accused of being biased against Mr. Maganga M. Japhet; coming with letters to the meeting bearing her own agenda; allowing the addition of two new agenda unconstitutionally; allowing some of the members to speak while denying such opportunity to other members including all the deponents; causing chaos in the meeting by showing up her fist in a combatant manner; arranging police to arrest Mr. Maganga and other members opposing her; chairing a session that was deliberating on accusation of postponement of the 30th anniversary celebration despite being asked to recuse herself, and the list is long. She is simply portrayed as the source of this dispute that has bred resolutions being challenged.

Now, upon perusal of the respondent's constitution attached to the respondent's counter affidavit, two things can be observed relevant to the matter at hand. **Firstly,** there are structured meetings with different levels of authority, the top most being the general assembly or "*Mkutano Mkuu wa Taifa*". This assembly has powers under article 23.1 (h) of the said

constitution, to remove from office leaders found guilty of some misconducts, of course subject to affording them opportunity to be heard.

Secondly; there is a dispute settlement mechanism in case of a dispute involving members or employees of the respondent. This dispute settlement mechanism is vividly provided for under article 38, which reads as follows: -

> ***"38. UTATUZI WA MIGOGORO***
>
> *Ikiwa kutakuwepo hali isiyo ya maelewano kati ya mwajiri na mwanachama/mfanyakazi,* ***wanachama kwa wanachama****/wafanyakazi kwa wafanyakazi ngazi ya uongozi inayohusika katika eneo la mgogoro itachukua hatua zinazostahili kwa kuzingatia taratibu za kutatua migogoro ambazo zimepitishwa na Baraza la Taifa kwenye Kanuni za Chama". [Emphasis added].*
>
> *The above provision can literary be translated thus:*
>
> *If there shall arise misunderstanding between employer and a member/employee,* ***among members*** */employee or between employees and other employees, the leadership level concerned shall take appropriate measures to resolve that dispute by observing procedures for dispute settlement approved by*

national council under the Organization' Regulations. [Emphasis added].

Since the grievances boiling in the hearts of the applicants, who have deponed to be members of the respondent, were caused by the chairperson who is also a member constitutionally, and the top leader of the respondent organization, and since the general assembly has power to remove from office leaders for misconduct, and since the totality of the complaints raised in this application are to the effect that the chairperson breached the constitution and abused her powers, it looks natural and mandatory that the applicants should have first pursued their grievances through internal dispute settlement mechanism established under the respondent's constitution before knocking the doors of this Court for redress.

In line with the powers of the general assembly stated above, article 23.2 (h) of the respondent's constitution provides the initial avenue, vide the national council, for those who have grievances against the leaders of the respondent. This article empowers the national council as follows:

"(h) kuchukua hatua za kinidhamu dhidi ya viongozi wa kitaifa wanaochaguliwa na Mkutano Mkuu, hii ikiwa ni pamoja na kuonya na kuwasimamisha uongozi wakati ukisubiriwa uamuzi

wa Mkutano Mkuu wa Taifa na kutoa mapendekezo kwa Mkutano Mkuu wa Taifa kwa uamuzi wa mwisho".

The above provision can literary be translated thus;

(h) to take disciplinary measures against national leaders appointed by the General Assembly, including to reprimand and to suspend their leadership pending decision of the General Assembly and to make recommendation to the Assembly for final decision".

It can be garnered from the above-quoted provision that doors were still open for the applicants to channel their grievances through mechanism established under the constitution of their organization. Whether they would triumph is a different matter. Under article 7.2 (g) of the same constitution, it is the duty of every member of the respondent to protect, propagate and defend their organization. With the allegation leveled against the chairperson, if supported by evidence, nothing could stand along the way to deny the applicants access to the top most organ of the respondent organization to ensure measures are taken against the alleged culprit.

That said, I concur with Mr. Vedasto that this application has been filed prematurely before exhaustion of the internal remedies provided for under

the constitution of the respondent. As already intimated above, the exhausting local remedies is a legal requirement which sets in motion the jurisdiction of this Court. (See the decisions of this Court in **Joram Meagie Lukumay vs. Minister of Constitution and Legal Affairs & Hon. Attorney General**, Misc. Civil Cause No. 24 of 2021, and **Parin A.A Jaffer and Another vs. Abdulrasul Ahmed Jaffer and Two Others** [1996] T.L.R 110). As such, the second ground of the preliminary objection is sustained, as I answer the second issue in the affirmative.

For the above reason, this Court has no jurisdiction to try this application. Accordingly, the application is struck out. This determination disposes of the entire application.

Considering that the applicants are members of the respondent, in honoring such a relationship, I make no order as to costs.

Dated at **Dodoma** this 9th day of May, 2024.

ABDI S. KAGOMBA
JUDGE