

**IN THE HIGH COURT OF TANZANIA**  
**(COMMERCIAL DIVISION)**  
**AT DAR ES SALAAM**

**COMMERCIAL CASE NO. 69 OF 2003**

<b>NATIONAL INSURANCE CORPORATION</b>	}	<b>.. APPLICANTS</b>
<b>PARASTATAL SECTOR REFORM</b>		
<b>COMMISSION</b>		

**VERSUS**

<b>GIFT ERIC MBOWE .....</b>	<b>1<sup>ST</sup> RESPONDENT</b>
<b>YONO AUCTION MART COMPANY LTD. ....</b>	<b>2<sup>ND</sup> RESPONDENT</b>

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**R U L I N G**

**LUANDA, J.**

The applicants are dissatisfied with the Bill of Costs assessed by the Taxing Master. They have filed this objection proceedings challenging the same. And as there are afraid the respondents might execute the decree, they have also applied for stay of execution.

But the chamber summons and the affidavit shown to have been drawn and filed by Mbamba & Company Advocates were not endorsed at all by an advocate from the said Law firm. That goes contrary to section 44 (1) of the Advocates Act, Cap 341.

Section 44 (1) of the said Act provides:-

44 (1) Every person who draws or prepares any instrument in contravention of section 43 shall endorse or cause to be endorsed thereon his name and address; and any such person omitting so to do or falsely endorsing or causing to be endorsed any of the said requirements shall be liable on conviction to a fine not exceeding two hundred shillings.

In **Ashura Abdulkadri versus The Director Tilapia Hotel Mwanza Civil Application No. 2/2005 Court of Appeal of Tanzania (unreported)** The Court of Appeal had the occasion to address the matter. In that case the Applicant's (Ashura) affidavit only showed it was drawn and filed by Ashura without an endorsement. The Court of Appeal of Tanzania through Msoffe, JA held that that was not proper. It ought to be endorsed by affixing a signature thereon.

In our case the chamber summons and affidavit were not endorsed by the applicant's advocate. That is not proper. Since the court was not properly moved, the application is struck out.

As the issue was raised by the Court, I award no costs to the respondents.

Order accordingly.

B.M. Luanda

JUDGE

26/10/2006.

Ruling delivered today .....<sup>27<sup>th</sup></sup>.....October, 2006.

Mr. ....<sup>Mbamba</sup>..... for the Applicants

Mr. ....<sup>Prof. Shaidi</sup>..... for the Respondents

I Certify that this is a true and correct  
of the original order, Judgement Rulling

Sign .....<sup>Bubise</sup>.....  
Registrar Commercial Court Dsm.

Date .....<sup>27/10/06</sup>.....