

IN THE HIGH COURT OF TANZANIA
(COMMERCIAL DIVISION)
AT DAR ES SALAAM
COMMERCIAL CASE NO. 49 OF 2006
MIKOANI TRADERS LIMITED PLAINTIFF
VERSUS
ENGINEERING & DISTRIBUTORS LTD. ... DEFENDANT

R U L I N G

LUANDA, J.

In the Written Statement of Defence, the defendant raised a preliminary objection in that the verification clause in the plaint is defective. The parties agreed to dispose of this point by way of written submissions. They duly filed their written submissions.

The defendant through their advocate one Mr. Didas submitted that the verification clause is defective in three aspects. One, it does not disclose the name of the principal officer who verified. Two, the verification clause does not state the place at which it was taken. And lastly no date was shown.

It is the defendant's submission that the above mentioned defects offends Order VI, rule 15 (3) of the Civil Procedure Code, Cap. 33. They prayed the plaint be struck out with costs.

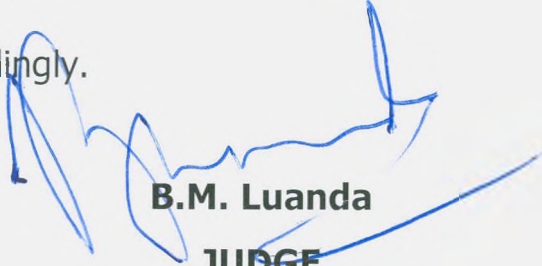
The plaintiff, through their advocate Mr. Adelaide conceded. But they prayed the court not to struck out the plaint. In its stead they be allowed to amend the same. They cited **Makinyumbi Estate Ltd. V. The Bank of Tanzania Civil Case No. 146 of 1998 High Court of Tanzania (Dar es Salaam Registry)** where Katiti, J. held inter alia, that such defect may be remedied by way of amendment.

I have gone through the plaint. The verification clause is defective in the three areas as submitted by Mr. Didas. The question for decision and consideration is whether the proper course to take is to struck out or amend the plaint.

I have read the case cited supra. I subscribe to the views of Katiti, J. expressed in that decision that the proper course is to order an amendment.

In sum, the preliminary objection is partly allowed with costs. The plaintiff to amend the verification clause as indicated above.

Order accordingly.



B.M. Luanda

JUDGE

30/10/2006

Ruling delivered today 31st October, 2006.

Mr. Adelaide for the Plaintiff

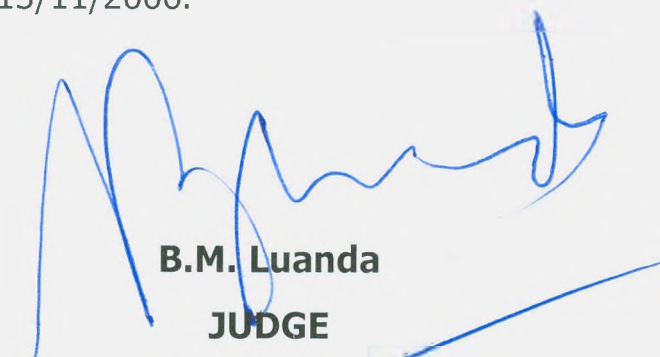
Mr. Didas for the Defendant



B.M. Luanda
JUDGE
31/10/2006

Order:- The plaintiff to amend the same within 7 days from today.

Mention on 13/11/2006.



B.M. Luanda
JUDGE
31/10/2006

.../ 370 words.