

**IN THE HIGH COURT OF TANZANIA
LABOUR DIVISION**

AT MOROGORO

MISCELLANEOUS APPLICATION NO. 19 OF 2020

GRACE MICHAEL.....APPLICANT

VERSUS

21ST CENTURY TEXTILES LTD.....RESPONDENT

RULING

Date of last Order: 30/10/20

Date of Ruling: 27/11/2020

Z.G.Muruke, J.

Grace Michael filed present application for leave of representative suit to be able to represent her fellow 58 in Labour Revision number 45/2019 between 21 century Textile Ltd vs. Octavian Simon Undole and 237 others. Application is supported by her own affidavit, of which relevant paragraph read as follows:

- (i) Respondent has instituted Revision number 45 of 2019 against us. We are numerous respondents hence permission of the court of defend on behalf of others.
- (ii) 59 respondent remained in this case has shown interest thus need for leave to defend the suit.

Respondent did not file counter affidavit. It is on records that they do not object the application for leave of representative suit sought by applicant.

The law Rule 44(1) of the Labour Court Rules GN 106/2007 provides that;

“Where there are numerous persons having the same interest in a suit, one or more of such person may, with the permission of the court, appear and be heard or defend in such dispute, on behalf of or for the benefit of all persons so interested.”

In the applicant’s affidavit at paragraph 2.1,2.2 and 2.3 there is common interest shown as applicant and her follow 58 others, are respondent in Rev. No. 45/2019 filed by respondent. They have both a claim to answer. Thus need of being represented by in an representative capacity.

Rationale behind seeking leave of representative suit was put very clear in the case of **Mhosa Mangomba & 16 Others Vs. Akida General**, Labour Revision No. 8 of 2010 unreported, where Rweyemamu, J. held that:-

“The issue of an employee or party requiring court permit before appearing in representative suit is not mere technicality; a party whom leave is not sought and obtained may rightly refuse to be bound by the decree which he was not properly part of.. my understanding of the law is that, even if an employee had acted in such capacity in the CMA he could only proceed to represent them in this court by making an application and obtained leave of the Court”.

The position was insisted in the Court of Appeal decision in the case of **KJ Motors and three Others Vs. Richard Kashamba and Others**, Civil Appeal No. 74 of 1999 where it was held that:-

“The rationale for this view is fairly apparent where for instance a person comes forward and seeks to sue on behalf of other persons, those other persons might be dead, non-existent, or otherwise fictions. Else he might purport to sue on behalf of persons who have not in fact authorized him to do so. If this is not checked it can lead to undesirable consequences. The Court can exclude such possibilities only by granting leave to the representative to sue on behalf of person whom he must satisfy the Court that they do exist and that they have duly mandated him to sue on their behalf”.

From the content of paragraph 2.1, 2.2, and 2.3, and annexure A attached to the affidavit sworn by Grace Michael, common interest exist, thus sufficient cause has been demonstrated. Thus, application is granted Grace Michael is granted leave to represent her fellow 58 whose names and signature appears in annexure “A”.



Z.G. Muruke

JUDGE

27/11/2020

Ruling delivered in the presence of Grace Michael and Adam Mwambene for the respondent.



Z.G.Muruke

JUDGE

27/11/2020

Labour Court Tz.