

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(LABOUR DIVISION)
AT DAR ES SALAAM**

MISC. APPLICATION NO. 145 OF 2021

BETWEEN

RENATUS MASANJA MAGESE & 10 OTHERS APPLICANTS

VERSUS

THE 21ST CENTURY FOOD & PACKAGING LTD. RESPONDENT

RULING

S.M. MAGHIMBI, J:

The application beforehand was lodged under the provisions of Rule 24(1)(2)(a)-(d) and 44(1)&(2) of the Labour Court Rules, 2007. The applicants are seeking for leave so that one Renatus Masanja can appear and be heard or defend in this Application on behalf of all other applicants in this application. The application was supported by an affidavit of one Renatus Masanja and what he termed as "the applicants herein", dated 05th day of May, 2021. While filing their notice of opposition under Rule 24(4) (a)&(b), the respondent also raised a preliminary objection on point of law that the application is incompetent for contravening the mandatory provisions of Rule 44(2) of the Rules. The objection was disposed by way

of written submissions whereas the respondent's submissions were drawn and filed by Mr. Adam Mwambene, learned advocate representing the respondent while the applicants' submissions were drawn and filed by the 1st applicant in person.

Having gone through the rivalry submissions of the parties which I shall consider in due course of constructing this ruling, I need not be detained much by the objection. As correctly pointed out by Mr. Mwambene the notice of application is defective as there is nowhere in the notice that shows who are the applicants making the said application. Furthermore, the applicants' names to show who is the 1st, 2nd, 3rd up to 11th applicant is not reflected anywhere. In the affidavit, it is allegedly sworn by all applicants and at the attestation clause, the applicant's names are given their respective numbers, the basis of which should have been reflected at the title page of the application, something which was not done. Otherwise there is no justification of the numbering of the applicants in the whole of the application. Because affidavit is a sworn statement of truth, each of the applicants deponing the affidavit must be reflected in the title of the case so as to correspond the numbers allocated at the

attestation page. The omission makes the affidavit fatally defective and consequently it makes the application incompetent.

Before I proceed to struck out the application I have noted something which I think I should address. At the Commission for Mediation and Arbitration, the applicants sought for and were granted leave that Renatus Masanja represent them. I therefore wonder, if the Revision application emanates from or is a continuation of the same dispute, is there really a need for the applicants to file yet another application for representative suit? Wouldn't this be an unusual prolongation of the disposal of labor disputes by filing multiple applications before getting into resolving the merits of the dispute? The answer is yes, it is a prolonged litigation for no reason. If the 1st applicant was appointed as the representative of the other applicants, the other applicants still have a common interest on the matter and the appointment has not been revoked, then I see no need to make yet another application for representation because that representation still continues and the power of the Mr. Masanja has not been stripped off by the court.

That said, the application is hereby struck out for being accompanied by a defective affidavit.

Dated at Dar es Salaam this 03rd day of February, 2022.



A handwritten signature in blue ink, consisting of a stylized 'S' and 'M' followed by a surname.

**S.M. MAGHIMBI
JUDGE**