

**IN THE HIGH COURT OF TANZANIA**  
**LABOUR DIVISION**  
**DAR ES SALAAM**  
**MISC. APPLICATION NO. 484 OF 2021**

**BETWEEN**

**BACKBONE TANZANIA COMPANY LTD..... APPLICANT**

**AND**

**FADHILI RAMADHANI JUMA..... RESPONDENT**

**RULING**

*Date of Ruling: 04/04/2022*

**B.E.K. Mganga, J.**

On 2<sup>nd</sup> December, 2021 the herein applicant filed this application for extension of time within which to file an application for revision of the award issued by the Commission of Mediation and Arbitration (CMA) on 23<sup>rd</sup> April 2021. Her application was supported by the affidavit of Mr. Dennis Magnus Mrope, her advocate. The application was opposed by respondent who filed the counter affidavit of Abraham John Mkenda, his advocate.

When the matter was scheduled for hearing, Mr. Mdope learned counsel appeared for the applicant while Mr. Mkenda learned counsel appeared for the respondent.

Before allowing the parties to make their respective submissions, the court raise a legal issue relating to competence of the application because the notice of application was signed by an advocate. I therefore asked learned counsels to address the court on whether; the Notice of Application was properly signed and whether this application is competent before the court.

Initially Mr. Mdope, learned counsel for the applicant submitted that the notice of application was properly signed hence the application is properly before the court. Mr. Mdope submitted that in terms of Rule 24(1) and (2) of the Labour Court Rules, GN. No. 106 of 2007, the Notice of application must be signed by the party bringing the application. He conceded that the parties in this application are **Backbone Tanzania Company Ltd** who is the applicant and **Fadhili Ramadhani Juma**, the respondent. learned counsel for the applicant submitted that the application was filed by Backbone Tanzania Company Ltd. Upon reflection, counsel for the applicant conceded that the notice of application was signed by Dennis Magnus Mrope, the applicant's Counsel, who is not a part to the application. He therefore conceded

that the application is incompetent before this court. He thus prayed for the court's leave to amend the notice of application.

On his part Mr. Mkenda, counsel for the respondent submitted that the application is incompetent. Counsel for the respondent did not have objection to the prayer of amending the notice of application.

From the submissions by both counsels, it is undisputed that the notice of application was signed by the applicant's advocate. That was contrary to Rule 24(2) of GN. No. 106 of 2007 (supra) which requires a notice of application be signed by a party bringing application before the Court. The Rule provides that: -

*"24(2) The notice of application shall substantially comply with Form No. 4 in the schedule to these Rules, **signed by the party bringing the application** and filed and shall contain the following information..."* [Emphasis added].

From the above quoted Rule, it is crystal clear that the notice of application must be signed by the party bringing the application and not an advocate or personal representative. Neither an advocate nor the personal representative is a party to the application for him to sign the notice of applications. An advocate or personal representative has a role only to represent the party to the application. That cannot turn them to

be either the applicant or respondent hence party to the application. The Notice of application was therefore defective for being signed by an advocate who is not a party to the application.

Rule 24(1) of GN. No. 106 of 2007 (supra) provides that all applications to the court shall be on notice. Since the notice of application was incurably defective, it cannot be amended. In other words, there is no application filed by Backbone Tanzania Company Ltd that can be amended.

For the foregoing, I hold that the application is incompetent and proceed to strike it out.

Dated at Dar es Salaam this 4<sup>th</sup> April 2022.



A handwritten signature in black ink, appearing to read 'B.E.K. Mganga'.

B.E.K. Mganga  
**JUDGE**