

**IN THE HIGH COURT OF TANZANIA**

**LABOUR DIVISION**

**AT DAR ES SALAAM**

**REVISION APPLICATION NO. 488 OF 2021**

**BETWEEN**

**FNB TANZANIA LTD.....APPLICANT**

**VERSUS**

**JUMA KIPAKAPAKA.....1<sup>ST</sup> RESPONDENT**

**VALENCE LAMTEI.....2<sup>ND</sup> RESPONDENT**

**RULING**

**14<sup>th</sup> July 2022 & 14<sup>th</sup> July 2022**

**K. T. R. MTEULE, J.**

Mr. Sungwa, Advocate for the Respondent raised a preliminary objection to challenge the appropriateness of the affidavit in support of the application due to defective jurat. The counsel for the Applicant Mr. Mushi, conceded to the preliminary objection on by admitting that the jurat does not bear the name of the advocate who attested the affidavit. He prayed for the court to allow the preliminary objection and strike out the application with leave to refile within 7 days without costs.

Mr. Sungwa conceded to striking out with leave to refile but claimed costs an argument that since the respondent is represented, there are costs which are incurred hence reimbursement is necessary.

From what the parties have submitted, it seems what is debated is the issue of costs. In the strength of the case of **Hamad Koshuma vs. Tanzania Ports Authority, Civil Appeal No. 40 of 2016** which is also cited by the applicants counsel, it is a known practice of this court that no costs award in labour matters. This being a labour matter, I cannot award costs. Mr. Sungwa's claim of costs therefore cannot be honored.

In the up short, since the applicant concedes to the preliminary objection and since no objection regarding leave to refile upon striking out of the applicant the following is ordered:-

- 1) The preliminary objection is hereby upheld.
- 2) The Application No. 488 of 2021 is hereby struck out with leave to refile it within seven (7) days from today.

No order as to costs.

It is so ordered.



  
**KATARINA REVOCATI MTEULE**

**JUDGE**

**14/07/2022**