

**IN THE HIGH COURT OF TANZANIA
LABOUR DIVISION
AT DAR ES SALAAM**

REVISION NO. 213 OF 2021

BETWEEN

NDOVU RESOURCES LIMITED APPLICANT

AND

THIERRY MURCIA RESPONDENT

RULING

Date of Last Order & Ruling: 16/08/2022

B. E. K. Mganga, J.

This application came today for hearing. When Ms. Linda Mwambete rose to submit on the grounds of revision, the Court suo motto raise a point on competence of the Notice of Application. Ms. Mwambete, Advocate conceded that the Notice of Application is defective because it was signed by an advocate who is not a party to the proceedings. Ms. Mwambete, correctly submitted that parties to the proceedings are Ndovu Resources Limited as the applicant and Thierry Murcia as the respondent. Ms. Mwambete prayed the application be struck out with leave to refile.

On his party, Mr. Elipidius Philemon, Advocate for the respondent did not have objection to that prayer.

It is undisputed that the notice of application was signed by Linda Mwambete, Advocate for the applicant while Rule 24(2) of the Labour Court Rules, GN. No. 106 of 2007 requires the notice to be signed by the party bringing the application. Ms. Mwambete is not a party bringing the application, but a representative of the party bringing the application. That being the position, I find that the Notice of Application is defective. Ms. Mwambete, Advocate prayed the application be struck out with leave to refile. On his side, Mr. Philemon had no objection. I find that there is justification based on the principle of overriding objective, leave to be granted so that parties can be heard on merit. That being the position, I hereby struck out this application for being incompetent and grant seven (7) days leave to the applicant to file a proper application. For avoidance of doubt, applicant shall file a proper application on or before 23rd August, 2022.

It is so ordered.


B. E. K. Mganga

JUDGE

16/08/2022

