

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

AT DAR ES SALAAM

MISCELLANEOUS APPLICATION NO. 166 OF 2022

SALUM SEIF.....	1ST APPLICANT
JUMA OMARI.....	2ND APPLICANT
MOHAMED SEIF.....	3RD APPLICANT
RAJABU LIUTIKE.....	4TH APPLICANT
SADIKI MOHAMMED.....	5TH APPLICANT
ADAM FERASTIAN MTAWILA.....	6TH APPLICANT
RASHID MJELELE.....	7TH APPLICANT
SHABANI S. MAGUNGA.....	8TH APPLICANT
JAFARI ABDALLAH.....	9TH APPLICANT
HUSSEN JAFARI.....	10TH APPLICANT
ISMAIL KASSIM MWECEO.....	11TH APPLICANT
ALIKO MALAGANO.....	12TH APPLICANT
RICHARD G. KILANGO.....	13RD APPLICANT
PETER ZUNDA.....	14TH APPLICANT
HAMISI RAMADHANI.....	15TH APPLICANT
JULIUS MGAYA.....	16TH APPLICANT
ELIUD W. KIMARIO.....	17TH APPLICANT
GABRIEL MWANSASU.....	18TH APPLICANT
SAID MOHAMEDI.....	19TH APPLICANT
REDMEKA JOHN.....	20TH APPLICANT
SHOMARI YUSSUPH.....	21ST APPLICANT
PIUSI MKALATI.....	22ND APPLICANT
JUMA HASSANI.....	23RD APPLICANT
RASHID SODA.....	24TH APPLICANT
NURDIN H. MSUYA.....	25TH APPLICANT
NICHOLAS E. KARUME.....	26TH APPLICANT
ALLY ALLY.....	27TH APPLICANT
JUMA A. MOHAMED.....	28TH APPLICANT
SIMON F. MSWAHILI.....	29TH APPLICANT
ATHUMANI TISSA.....	30TH APPLICANT

KAIMU ATHUMANI.....	31 ST APPLICANT
RAMADHANI HEMEDI.....	32 TH APPLICANT
ZUBERI MOHAMEDI.....	33 RD APPLICANT
SAIDI BAKARI MCHIA.....	34 TH APPLICANT
MARTIN DAVID.....	35 TH APPLICANT
ALLY HAMISI.....	36 TH APPLICANT
TONNY KAMUSI.....	37 TH APPLICANT
HAMISI S. MALUCHILA.....	38 TH APPLICANT
HASSANI ALLY.....	39 TH APPLICANT
MOHAMMED O. MILANZI.....	40 TH APPLICANT
SAID HUSSEN.....	41 TH APPLICANT
ISSA BAKARI MSHAM.....	42 TH APPLICANT
FABIAN JOHN.....	43 RD APPLICANT
MBARAKA S. TINDWA.....	44 TH APPLICANT
YONA P. MWANGAYOTA.....	45 TH APPLICANT
SIMON P. MNEMBUKA.....	46 TH APPLICANT
BETHOD MUBEZI.....	47 TH APPLICANT
HAMISI PWATO.....	48 TH APPLICANT
SHAIBU A. CHANDE.....	49 TH APPLICANT
JUMA CHANDE.....	50 TH APPLICANT
HARUNA NYUMBA.....	51 TH APPLICANT
ATHANASI KALONGOLE.....	52 TH APPLICANT
SULTAN JUMA.....	53 RD APPLICANT
HUSSEIN MOHAMED.....	54 TH APPLICANT
SEFU SALEHE.....	55 TH APPLICANT
ANDREW FIDELIS.....	56 TH APPLICANT
HAJI MPANDE.....	57 TH APPLICANT
CHRISTOPHER J. SHUNDI.....	58 TH APPLICANT
SAID A. ALLY.....	59 TH APPLICANT
MWALAM JUMA.....	60 TH APPLICANT
MUSTAFA SELEMAN.....	61 TH APPLICANT
SHABANI S. MAKAME.....	62 TH APPLICANT
ALLY M. SINGILIMO.....	63 RD APPLICANT
OSWARD B. FUNGAM.....	64 TH APPLICANT

MOHAMMED ALLU.....	65THAPPLICANT
GATTAN CHUMA.....	66THAPPLICANT
MARTIN COSMAS.....	67THAPPLICANT
ATHUMAN MISUNGA.....	68THAPPLICANT
ADAM H. MATOLA.....	69THAPPLICANT
ZUNGU SHAMTE.....	70THAPPLICANT
OMARI HAMISI.....	71THAPPLICANT
HENNRY MICHEAL.....	72THAPPLICANT
SALUM AMANI.....	73THAPPLICANT
FADHILI H. NGUYA.....	74THAPPLICANT
ABILLAH CHARIKO.....	75THAPPLICANT
KASSIM MBWANA.....	76THAPPLICANT
GAUDENCE I. SHIRIMA.....	77THAPPLICANT
RAMADHANI RAJABU.....	78THAPPLICANT
HAJI LUBAWA.....	79THAPPLICANT
KITTEY J. NDALAMA.....	80THAPPLICANT
RAMADHAN MUSTAPHA.....	81THAPPLICANT
HAMISI IBRAHIM.....	82THAPPLICANT
PATRIC ZAWAYO.....	83THAPPLICANT
IBRAHIM ADAM.....	84THAPPLICANT
ADAM R. MNEKA.....	85THAPPLICANT
MUHARAM O. KINGAMBE.....	86THAPPLICANT
OMARI KITUNGUTA.....	87THAPPLICANT
MOSES JOHN MKOI.....	88THAPPLICANT
SUKA SAIDI NGAWANGA.....	89THAPPLICANT
ABDUL MRISHO.....	90THAPPLICANT
MANSOOR M. KOMBO.....	91THAPPLICANT
ABDALLAH ALLY WAYA.....	92THAPPLICANT
SELEMANI ADIMU.....	93THAPPLICANT
MWARAMI YUSUPH JOSSO.....	94THAPPLICANT
JABIL OMARI MKWELA.....	95THAPPLICANT
PAUL S. KAHUTU.....	96THAPPLICANT
DIDAS MTAMBALIKE.....	97THAPPLICANT
ADAM MNDAI.....	98THAPPLICANT

YUSSUFU O. RIMAMU.....	99 TH APPLICANT
YONA S. NZUNDA.....	100 TH APPLICANT
BAKARI MWALIMU.....	101 TH APPLICANT
MOSES MWAMWALA.....	102 TH APPLICANT
JULIUS MAJOYA.....	103 TH APPLICANT
R.T.PONZA.....	104 TH APPLICANT
MOHAMMED RASHID.....	105 TH APPLICANT
DAUDI MAKONO.....	106 TH APPLICANT
HAMISI SHABANI.....	107 TH APPLICANT
SAID M. AWADHI.....	108 TH APPLICANT
OMARI A. MANDUTA.....	109 TH APPLICANT
HASSANI MOHAMED.....	110 TH APPLICANT
EMMANUEL MALAGO.....	111 TH APPLICANT
SILVEER ORWA.....	112 TH APPLICANT
ALLY SHOMARI.....	113 TH APPLICANT
WAZIRI A. KOMBO.....	114 TH APPLICANT
JOHN FUCAS.....	115 TH APPLICANT
PETER KWETUKA.....	116 TH APPLICANT
WILLIAM KWETUKA.....	117 TH APPLICANT
MUSSA HABABU.....	118 TH APPLICANT
ABDURAHMAN MKUNDE.....	119 TH APPLICANT
AMIRI I. MDULU.....	120 TH APPLICANT
YUSUFU KIANGE.....	121 ST APPLICANT
NGWADA MAKELO.....	122 TH APPLICANT
CHANDE ABDALLAH.....	123 TH APPLICANT
RAMADHANI SAID.....	124 TH APPLICANT
ALLY ABDALLAH.....	125 TH APPLICANT
HAMADI HAMISI.....	126 TH APPLICANT
INNOCENT LUCAS MJENGWA.....	127 TH APPLICANT
DOMINIC CHOTA.....	128 TH APPLICANT
JUMA SEILF MAKELA.....	129 TH APPLICANT
SIASA A. MUOME.....	130 TH APPLICANT
MAYUNGA LUGUSHA.....	131 TH APPLICANT
BAKARI KIBINDU.....	132 TH APPLICANT

H. JACKSON.....	133 TH APPLICANT
HENRRY MORIS.....	134 TH APPLICANT
AMOS KAWANGA.....	135 TH APPLICANT
SEIF OMARI MWIMBA.....	136 TH APPLICANT
ATHUMANI RAMADHAN.....	137 TH APPLICANT
RAJABU HATIBU.....	138 TH APPLICANT
SALUM SEFFU.....	139 TH APPLICANT
AWADHI NASSORO.....	140 TH APPLICANT
O.MBURU.....	141 TH APPLICANT
HUMPHREY J. MANDO.....	142 TH APPLICANT
MUSA MUHINA.....	143 TH APPLICANT
THOMAS EMMANUEL.....	144 TH APPLICANT
MUSTAPHA RAMADHANI HIZA.....	145 TH APPLICANT

VERSUS

TANZANIA PORTS AUTHORITY.....RESPONDENT

RULING

19th July & 25th August 2022

Rwizile, J

The application before me is for filing a representative suit. The applicants have filed this application praying this court to grant an application that a representative suit be filed. In the affidavit supporting their application, it has been averred that when they first appeared before this court to file the application, it was struck out and on 2017. They then filed application No. 263 of 2017 which was struck out for being out of time. Thereafter, they filed many other applications but for one reason or another, they have not been successful.


Before, it came for a hearing, a preliminary objection was raised that the application is res judicata. I was asked to dismiss the application. The applicants, being represented by Mr. J.J. Kachenje learned counsel was asked to address the court on the same because the respondent, who was in the services of Mr. Shija Charles and MS. Mwantum Selle did not appear to prosecute the same. I did so because it touches the jurisdiction of this court.

In his submission Mr. Kachenje admitted that on 21.09.2018, this court (Mruke,J) struck out, the application because it was time barred. In his view, since the same was struck out, the applicants had the chance to refile the same but subject to time limitation. According to him, this application was then filed. It is not, in his view a res judicata.

The matter before me, it is my view, was therefore heard before this court and finally determined. Under Section 9 of the Civil Procedure Code, I am convinced, that the parties had litigated under the same title and so their application was finally determined. It is clear that a matter filed before the court out of time, when struck out or dismissed cannot be refiled again. It is finally determined.

In my view, it is therefore res-judicata. It cannot be litigated again. That being the case, the preliminary objection is sustained. The application is dismissed force with. Each party to bear its own costs.




A.K. Rwizile
JUDGE
25.08.2022