

**IN THE HIGH COURT OF TANZANIA**

**LABOUR DIVISION**

**AT DAR ES SALAAM**

**MISCELLANEOUS APPLICATION NO. 124 OF 2023**

**RASHID SALUM ..... 1<sup>ST</sup> APPLICANT**

**ALLY MUSSA MMANGA ..... 2<sup>ND</sup> APPLICANT**

**VERSUS**

**DARSH INDUSTRIES LIMITED ..... RESPONDENT**

**RULING**

*Date of last Order: 20/07/2023  
Dated of Ruling: 20/07/2023*

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

Brief facts of this application are that, Rashid Salum and Ally Mussa Mmanga, first and second applicant respectively, were employees of Darsh Industries Limited the herein respondent. It is said that employment of the 1<sup>st</sup> and 2<sup>nd</sup> applicants commenced on 10<sup>th</sup> January 2015 and 6<sup>th</sup> March 2016 respectively. It is further said that on 19<sup>th</sup> July 2021 respondent terminated employment of the applicants. Aggrieved

with termination of their employment, applicants filed labour dispute CMA/DSM/ILA/527/21 before the Commission for Mediation and Arbitration complaining that they were unfairly terminated. Being aware that they were out of time, together with the Referral Form (CMA F1) applicants filed an application for condonation (CMA F2). On 01<sup>st</sup> April 2022, Hon. Chengula, M (Mediator) dismissed the application for condonation filed by the applicants.

Aggrieved with the CMA decision, applicants filed this application citing Rule 44(1), (2) and (3) of the Labour Court Rule, GN. No. 106 of 2007. In the Notice of Application, applicants indicated that they were praying the Court to grant leave and appoint Mr. Daudi Maziku Maduki who is one of the applicants to represent them. In their joint affidavit in support of the application, applicants deponed that they were seeking the Court to extend time within which to file revision to challenge the abovementioned CMA Ruling.

When the application was called on for hearing, Mr. Daudi Maziku Maduki, personal representative, appeared on behalf of the applicants while Mr. Emmanuel Matondo and Mr. Andrew Chima, Advocates appeared on behalf of the respondent. *Suo motto* raised the issue of

competence of this application and asked the parties to make submissions thereof.

During hearing, Mr. Daudi Maziku Maduki, readily conceded that the application is incompetent and prayed it be struck out. On the other hand, Emmanuel Matondo, Advocate for the respondent concurred with submissions made on behalf of the applicants.

I entirely agree with submissions of the parties. It is undisputed that the application is defective because, one, Mr. Daudi Maziku Maduki was not one of the respondent's employees or one of the parties to the CMA proceedings for him to pray to be appointed by the Court as one of the applicants to represent others. Applicants appointed Mr. Maduki as their personal representative only to appear and argue this application. The Notice of representation signed by the applicant is clear to that effect. Two, the affidavit in support of the Notice of Application shows that, applicants have filed this application praying the Court to extend time within which to file an application for revision. In terms of Rule 24(3) of the Labour Court Rules, GN. 106 of 2007, the Notice of Application must be supported by an affidavit. Therefore, the Notice of Application and the joint affidavit filed by the applicants are travelling in a different route and different direction and in no way the two can meet.

I have been forced to write this ruling because it appears both the applicants and their personal representatives, did not take time to consider what they are seeking before the court, but they just filed papers just to make sure that there is an application before the court. I advise parties before filing any application before the court, to have a second look and see whether, the affidavit supports the Notice of Application or not. That will help them to avoid filing incompetent applications like the one at hand.

That said and done, I hereby strike out this application for being incompetent.

Dated at Dar es Salaam on this 20<sup>th</sup> July 2023.



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

Ruling delivered on 20<sup>th</sup> July 2023 in chambers in the presence of Daudi Maziku Maduki, the Personal Representative of the Applicants and Emmanuel Matondo and Andrew Chima, Advocates for the Respondent.



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