

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

AT DAR ES SALAAM

REVISION NO. 212 OF 2023

(Originating from CMA/DSM/KIN/28/22)


**SEITTA LAMECK MWANDU.....APPLICANT
VERSUS
ADAMAS CONGLOMERATE LIMITED.....RESPONDENT**

RULING

07th Nov – 08th November, 2023

OPIYO, J.


In this matter the ground for revision that was argue is whether it was right for CMA to determine the matter/application on merits without first determining preliminary objection on time limitation. As per records and submission of Salum Rugwiza, Personal representative representing the applicant, there was an application for setting aside *ex parte* award by the respondent the applicant who were the respondents then filed a notice of preliminary objection on 11/07/2023. The determination of the application proceeded on merits without determination of the said preliminary objection.



These facts were conceded to by Mr. Augustino Kusarika, learned counsel representing the respondent. It is a cardinal principle of law that where there is a point of objection, the same has to be determined first. It follows therefore that, it was indeed an error for the CMA to proceed with the matter on merits without disposing the point of objection first. This made the related proceedings a nullity.

For the reason, the proceedings, decision and orders of the CMA relating to setting aside ex parte award are nullified. The file is remitted back to CMA for retrial on the matter after determination of the preliminary objection, notice of which was file on 11/07/2023 on time limitation of the application. Let the matter be placed before a different arbitrator.




M. P. OPIYO,
JUDGE
08/11/2023