

**IN THE COURT OF APPEAL OF TANZANIA
AT DAR ES SALAAM**

CIVIL APPLICATION NO. 121 OF 2004

In the Matter of an Intended Appeal

BETWEEN

**TANZANIA PARKING SYSTEM LTD.
APPLICANT
VERSUS
PATRICK MROPE AND 4 OTHERS.....
RESPONDENTS**

**(Application for Stay of Execution from the decision of the High
Court of Tanzania at Dar es Salaam)**

(Mwaikugile, J.)

dated the 20th day of August, 2003

in

Misc. Civil Cause No. 20 of 2003

R U L I N G

MSOFFE, J.A.:

At the hearing of the application it transpired that the applicant company was struck off the register vide General Notice No. 314 dated 23/4/2004 and published on 7/5/2004.

Mr. Mgare, learned advocate for the applicant, sought this Court's directions as to what could be done in the circumstances. Mr. Patrick Mrope (the 1st respondent) who appeared on his own behalf and also on behalf of the second respondent, responded by saying that the court could proceed to determine the application on merit

notwithstanding that the applicant company has been struck off the register. On his part Mr. Chidowu, learned State Attorney for the 3rd, 4th and 5th respondents, was of the view that the application could be struck out. In his opinion it would be pointless to proceed with the application because at the end of the day there might be no order capable of being enforced against the applicant.

The applicant company was struck off the register by the Registrar of Companies in exercise of the power conferred by S. 283 (5) of the Companies Act, Cap 212. S. 283 (5) reads as follows:-

“(5) At the expiration of the time mentioned in the notice the Registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register, and shall publish notice thereof in the gazette, and on the publication in the gazette of this notice the company shall be dissolved:

Provided that:-

- a) the liability, if any, of every director, managing officer, and member of the company shall continue and may be enforced as if the company had not been dissolved; and
- b) nothing in this subsection shall affect the power of the court to wind up a company the name of which has been struck off the register.

In my interpretation of the above provision, once a notice is published in the gazette the relevant company is dissolved. However, liability, if any, does not end with the dissolution of the company. Liability, if any, continues and may be enforced against a director, managing officer and member of the company as if the company had not been dissolved.

In the instant matter, there is no dispute that Tanzania Parking System Ltd. has been dissolved. Once that was done its legal personality also ceased. If so, liability, if any, would now lie, and could be enforced, against a director, managing officer and member of the company in question.

In the light of the law, as borne out by the above provision, it will follow that the logical thing to do in the circumstances will be to strike out the application because the applicant no longer exists. Once that is done anyone with a claim could proceed against its director, managing officer and member of the said company.

For the above reason the application is struck out with no order as to costs.

DATED at DAR ES SALAAM this 8th day of September, 2005.

J.H. MSOFFE
JUSTICE OF APPEAL

I certify that this is a true copy of the original.

(S.A.N. WAMBURA)
SENIOR DEPUTY REGISTRAR