

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF ARUSHA

AT ARUSHA

CIVIL APPLICATION NO. 76 OF 2021

TANRUBY AND GEMSTONE MINES COMPANY LIMITED.....APPLICANT

VERSUS

VADA GEM TRADERS COMPANY LIMITED.....RESPONDENT

RULING

12/07/2022 & 12/07/2022

GWAE, J

The applicant is moving this court under the provision of section 95 of the Civil Procedure Code, Cap 33 Revised Edition, 2019 and Rule 5 of the Civil Procedure (Arbitration) Rules Revised Edition, 2019 for an order of the court appointing an arbitrator who shall preside over the dispute between the applicant and the respondent. The applicant further sought for and order that the respondent be compelled to appear for his case before the court's appointment of an arbitrator.

The application is supported by the sworn affidavit of one Frank L. Marealle, the Principal Officer of the applicant where it is stated that the parties herein had entered into an agreement of operating mining

activities at Mundarara Ruby Mining Company. It is further stated that according to the terms of the agreement, parties herein had agreed that all disputes were to be resolved through negotiations and arbitrations. As it appears that the relationship of the parties herein has deteriorated and that, the applicant has tried all means to reconcile with the respondent in vain.

The applicant is now before this court seeking an appointment of an arbitrator by this court. Together with this application the applicant has also attached a list of accredited arbitrators in the Mainland Tanzania as were listed in the Government Gazette Number 34 dated 20th August 2021.

The respondent on his part opposed the application through the counter affidavit sworn by one Davis John Shayo, the Principal Officer of the respondent.

When the matter came for hearing, the applicant was represented by **Mr. Deogratius Njau**, the learned counsel while the respondent was represented by **Mr. Hamis Mkindi**, an advocate from Legal and Human Rights Centre. The Parties' advocate had nothing to add to their pleadings save for Mr. Mkindi counsel for the respondent who supported this application as opposed to the respondent's counter affidavit.

The law under rule 5 of the Civil Procedure (Arbitration) Rules is very clear that, the court may appoint an arbitrator after other party being served with a notice of appointment of an arbitrator. Considering the fact that the application is not contested, **Mr. Nicholas Muntumba Frederick Duhia** of P.O Box 10488 Arusha who is enlisted in the National List of accredited Arbitrators is hereby appointed as sole arbitrator of the dispute between the parties as jointly appointed by the parties' advocates pursuant to section 18 (2) (a) of the Arbitration Act, No. 2 of 2020 during hearing of this application.

It is hereby ordered.


M. R. GWAE
JUDGE
12/07/2022

Orders:

1. Arbitration award be filed by 8/12/2022
2. Mention on 8/12/2022 to ascertain conclusion of the arbitration or otherwise and related further action
3. Parties and or their advocates shall appear on the date fixed herein above




M. R. GWAE
JUDGE
12/07/2022