IN THE HIGH COURT OF TANZANIA

LABOUR DIVISION

AT DAR ES SALAAM

REVISION APPLICATION NO. 444 OF 2022

(Arising from the decision of the Commission for Mediation and Arbitration of Dar es Salaam at Ilala dated 29th day of November 2022 in Labour Dispute No. CMA/DSM/ILA/20/353 by (Igogo: Arbitrator)

BARAKA JECONIAH..... APPLICANT

VERSUS

THE ASSOCIATION OF PRIVATE

HEALTH FACILITIES IN TANZANIA .....1st RESPONDENT

AFYA MICROFINANCE LIMITED.....2nd RESPONDENT

JUDGEMENT

K. T. R. MTEULE, J.

19th April 2023 & 04th May, 2023

This revision application emanates from the award of the Commission for Mediation and Arbitration of Dar es Salaam at Ilala (CMA) in Labour Dispute No. CMA/DSM/ILA/20/353. The prayers contained in the Chamber summons are the following: -

1. That, this Honorable Court be pleased to call for the records of the proceedings and the award from the Commission for Mediation and Arbitration at Dar es Salaam, in Labour Dispute No. CMA/DSM/ILA/20/353, to revise and set aside the whole

Award of the Commission for Mediation and Arbitration dated 29th November 2021 delivered Hon. Igogo, M- Arbitrator.

2. Cost to follow the event.
3. Any other relief(s) this Honourable Court deems fit and just to grant.

The brief background of the dispute leading to this application is grasped from CMA record, affidavit and counter affidavit filed by the parties as stated hereunder. On **15th July 2015** the applicant was appointed to be the Managing Director vide a letter written by the 2nd Respondent. On **31st August 2020** he was terminated for the reason of Misconduct after an investigation having found him guilty of two offences among the three he was charged with to wit; Gross Dishonesty and Conflict of Interest). Aggrieved by the termination, the applicant filed a complaint in the CMA against the two respondents because there was interface between the 1st and the 2nd Respondents in the applicant's duties assignment. The Commission found the applicant's termination from employment to be both substantively and procedurally fair. Being resentful with the award, he preferred this application for revision.

The application is supported by the applicant's affidavit. In the affidavit, the applicant is challenging the fairness of his termination.

He deponed that there was no valid and fair reason for termination and procedures implemented in ending his employment contract was not in accordance with the law.

The affidavit, contained a long list of grounds which I find not necessary to reproduce hereunder. However, my comprehension to all the listed grounds of revision shows that the application is challenging the arbitrator's holding that there was a fair termination in terms of reasons and procedure due to the following:

a. Arbitrator's failure to consider and evaluate the evidence on record,

b. The arbitrator's failure to note that the Disciplinarily process including the investigation and the Committee was fair for being not properly constituted, not impartial and not independent.

c. The arbitrators failure to hold that the 1st respondent is also the applicant's employer for having suspended the applicant for more than 5 months and later issuing a notice of lifting the suspension.

d. Arbitrator's consideration of extraneous matters by introducing a new fact that the applicant failed to appear before the disciplinary committee.

e. Existence of material errors to the merits of the decision of the Commission thus making the award improperly procured.

Opposing the application, the respondent filed a counter affidavit sworn by Joseph Mhagama and Fares Kapinga, who are respondent's Principal Officer. They dispute the application claiming the termination to be fair substantively and procedurally.

The Application was heard by written submissions where the applicant was represented by Mr. Lucco Stephen, Advocate, while Advocate Iddi Omari Mlisi represented the respondent.

In his submission, Advocate Stephen, having adopted the contents of the affidavit as part of his submissions, argued the ground in an arrangement which reflects what is paraphrased above. Starting with the grounds related to fairness of reasons, Advocate Stephen he commenced with the first category of grounds concerning evidence consideration and evaluation. He submitted that there was no proof regarding the allegation of the theft of **TZS 10,000,000** which was an offence in the charge sheet. According to him, the failure to prove so by supporting evidence including cheque, transfer form or bank statement contravened **Section 110(1) and (2) of the Evidence Act [Cap 6 R.E 2019]** and **Rule 13(5) of the Employment and**

Labour Relations (Code of Good Practice) G.N No. 42 of 2007.

He cited the case of **Florian M. Manyama and Another v. Maxmillian Thomas,** Civil Appeal No.121 of 2020, Court of Appeal of Tanzania, at Mwanza which addressed the requirement of tendering tangible evidence. In absence of such evidence, he of the view that the respondent failed to prove reason for termination and in that regard the respondent failed to prove the fairness of the reasons.

He further referred to **Section 39 (b), (q) of the Employment and Labour Relations Act, Cap 366 R.E 2019** and submitted that under the section the employer owes a legal duty of proving as to whether the termination effected against her employee was fair. According to him the respondent failed to call material witness to wit, Dr. William Sebesebe.

Making reference to the case of **Tanzania Electric Supply Co. Ltd v. Mariam Robert Mbinda @ Mariam Edward Silah** as the administrix of the late Robert Mbinda and Another, Civil Appeal No. 13 of 2019, High Court of Tanzania, at Mbeya which referred the case of **Hemedi Said v. Mohamed Mbiu** [1984] TLR 113 where the court addressed the importance of calling the material witness and failure of which the court should draw inferences that if the witness

would have been called, he would testify against the interests of the party. It is the submission of Advocate Stephen that since the was clouded with shadows of gaps in the evidence due to failure to call material witness, then the matter was not proved to the required standard.

Referring to page 39, 40 and 41 of the award where the arbitrator stated that the applicant was found guilty of three offences as per Exhibit A-7, Advocate Stephan submitted that the arbitrator erred in law, on the reason that her findings differ with evidence tendered by the applicant in the CMA. He challenged the arbitrator for having not acted in accordance with **Rule 12 of G.N No. 42 of 2007** in deciding fairness of termination as a decision maker. Supporting his argument, he cited the case of **Huruma H. Kimaro v. Security Group T (LTD),** Revision No. 412 of 2016, High Court of Tanzania, Labour Division, at Dar es salaam.

Regarding the fairness of procedure, Advocate Stephan challenged the way the suspension and investigation was conducted. He submitted that **Rule 13 (1) of G.N No. 42 of 2007** directs investigation to be conducted in identifying as to whether there is a need of conducting disciplinary hearing but that procedures was not followed because he was suspended on **16th July 2020** but the

suspension was lifted on **20th July 2020** where the applicant reported to the work. According to him, the suspension was lifted as there was no reason for conducting disciplinary hearing, resulting to non-compliance with the procedure of conducting investigation as it was held in the case of **Equity Bank Tanzania Limited v. Martin Shashi, Revision No. 152 of 2021, High Court of Tanzania, Labour Division, at Dar es salaam.**

Advocate Stephan alleged the Disciplinary Committee with biasness in the entire process, on the reason that one Jared Ndiege signed investigation report as per **Exhibit D4** and it is the same person who signed the applicant's termination letter. On such basis he is of the view that the hearing was not impartial. Bolstering his position he cited the case of **I & M Bank Limited v. Gregory Ogweyo, Consolidated Revision No. 724 &761 of 2019, High Court of Tanzania, Labour Division, at Dar es salaam** where it was held that it is a principal of law that you cannot be a judge on your own case. He further added that since the same person signed the applicant termination letter, then it could be easy for him to influence the decision and recommendations of the Committee.

Mr. Stephan complained that the applicant was not given a copy of investigation report to prepare for his defence. He referred to the

case of **Higher Education Loans Board v. Yusuph M. Kisale, Consolidated Revision No. 755 & 858 of 2018, High Court of Tanzania, Labour Division, at Dar es salaam, at page 53** where the court faulted the fauilre to provide the employee with the investigation report. In his view it is crystal clear that the respondent did it purposely to deny the applicant with fundamental constitutional rights to be held.

Regarding the responsibility of the 1st Respondent, Advocate Stephan submitted that since the applicant's employment contract bears the 1st respondent's address and 1st respondent suspended him for five months and then lifted the suspension, then the arbitrator should not have allowed the 1st Respondent to escape the liability of paying compensation for unfair termination. He cited the case of **Feza International School v. Dorcus W. Nyuki & Lengen Co. LTD, High Court of Tanzania, Labour Division, at Dar es salaam** where it was ruled that the employer who causes unfair termination must pay compensation.

Advocate Stephen identified another irregularity that the respondent's advocate Mr. Iddi Omari Mlisi appeared before the Disciplinary Committee as a prosecutor for the respondent which creates a conflicting interest contrary to **Regulation 45 (1) and (3) of G.N**

No 118 of 2018. According to the Advocate Stephen, the advocate's representation is prejudicial to the applicant's fair hearing as he is likely to be a witness in this matter. He referred to **Rule 3 of the Bar Council of India Rules of 1975** which provided that the advocate should not appear as an advocate in a case in which he is a witness. He supported his argument by the case of **Suluma Ali Bahdela v. Ali Omari Mohamed & 6 Others,** Land Case No.213 of 2017, where the Court cited the case of **Hotel Sultan Palace Zanzibar v. Daniel Laizer and Another** holding that, an advocate who is a party or witness to a case must appear as a litigant or witness and not as an advocate due to conflict of interest. For that reason, he prayed for an advocate Idd Omari Mlisi to be disqualified from representing any party in this matter.

Opposing the application starting with the grounds relating to fairness of the termination, Advocate Mlisi submission began by responding on the nature of the charges against the Applicant. He stated that the applicant was charged with three offences, but he was found guilty of two offences one being conflict of interest as per Exhibit D11. According to him, in proving the offence four witness were called and according to Exhibit D4 as indicated at page 36 of the CMA award which states that after investigation it was established that the

applicant has the case to answer and that this finding was never challenged by the applicant neither during the disciplinary hearing nor at the CMA. He added that it is the position of law that a party who fails to cross examine the witness on a fact is not entitled to ask the Court to disbelieve the said evidence and that this was the position in the case of **Paulo Yustus v. National Executive Secretary Chama Cha Mapinduzi,** Civil Appeal No. 85 of 2005.

According to Advocate Mlisi, the other offence under which the applicant was convicted was dishonest where four witnesses appeared before the disciplinary hearing and described how the act of dishonesty occurred. It is the submission of Advocate Mlisi that the 2nd respondent being a micro finance company, hence someone who shakes its credibility need to prove his innocence. In supporting his stand, he cited the case of **Sophia Mohamed Hango v. Nmb Bank PLC, Revision No. 85 of 2019** where it was held that *"...issue of integrity, trust and confidence which are core values of banking industry...this Court hold that the applicant's reason for termination were substantively valid and fair."*

It was further submitted that in by Advocate Mlisi that in civil matters the standard of proof rests on balance of probabilities and not beyond reasonable doubt. He stated that the applicant wrote three letters

including **Exhibit D-7** stating his refusal to attend the Disciplinary hearing and even after he arrived, he refused to testify in his own defence. He referred to page 41 of the award where it is stated that the applicant failed to appear at Disciplinarily hearing due to a fear that the committee would not do justice to him. In the view of Advocate Mlisi, on such refusal to attend the hearing, the applicant could not claim that his right to be heard was violated. Bolstering his position he cited the cases of **Kilimanjaro Plantation Limited versus Nicolause Ngowi, Revision No 40 of 2020** and **Joseph Kamala versus Lawrence Citizens School (2017) LCCD 78** and **Killian Ngonyani versus ATN Petroleum Co. Limited, 2017 LCCD.**

Regarding the attendance of Dr. Sebesebe as a witness, Advocate Mlisi submitted that he testified in the disciplinary hearing and the applicant cross examined him but left the meeting before giving his defence. According to Advocate Mlisi, the disciplinary committee report was tendered in the CMA. He considered the act of the applicant to challenge the report at this stage as an afterthought and this court cannot take it as stated in the case of **Hotel Traveltine and 2 Other versus NBC [2006] TLR where it was stated "***an*

appellate court cannot take matters not taken or pleaded in the court below."

Submitting on impartiality of the disciplinary process, Mr. Mlisi submitted that there is no room at this point to call witness and cross examine the person named Jired Ndiege. He stated that the investigation report was signed by Mr. Fares Kapinga, as per seen in **Exhibit D-4.** Referring to page 29 of the CMA award he submitted that the investigator appeared in the CMA, but the applicant never cross examined anything about Jired Ndiege or the contents of investigation report. He cited the case of **Sophia Mohamed Hango v. Nmb Bank PLC,** Revision No.85 of 2019, High Court of Tanzania, at Arusha, unreported, emphasize the principle of not raising new issues at revisional stage.

Regarding conflict-of-interest, Mr. Mlisi submitted that this question was not raised at CMA for both parties to be afforded with an opportunity of being heard, but the applicant himself admitted that Iddi Omary Mlisi was employee of the 2nd respondent as a lawyer.

Regarding investigation, Mr. Mlisi submitted that the same was never challenged at CMA. Submitting alternatively, Advocate Mlisi is of the view that the purposes of investigation under **Rule 13 (1) of G.N No. 42 of 2007** is to assist employer to in determining whether or

not a disciplinary hearing is required. According to him, From Rule 11 (6) through 13 (2) and 13 (13), investigation is not among the reports which the employer should share with the employee prior to the disciplinary hearing.

Regarding who is the employer, Advocate Mlisi submitted that the Applicant in his own words before the CMA testified that he was employed by the 2nd respondent. He is of the view that he cannot change his testimony at this stage.

The Applicant filed a rejoinder. He reiterated his submission in chief but emphasized that since the applicant was suspended after investigation contrary to **Rule 13(1) of G.N No. 42 of 2007** then it was important for the applicant to be served with the copy of investigation report for the fairness of procedure for termination. He further added that for those assertion which are not challenged by the respondents including (i),(0) and (p) in the affidavit, justifies admission by the Respondent.

Guided by the submissions made by both parties, as well as the applicant's affidavit, the Respondent counter affidavit and CMA record, I draw up two issues for determination which are **whether the applicant have provided sufficient ground for this Court to revise the CMA award** and secondly **what reliefs are parties**

entitled to. In approaching the above issues, all grounds identified in the affidavit will be considered all together focusing on two aspects of fairness of termination, namely the fairness of reasons and the fairness of procedure.

Before I embark to those two aspects, I find worth to address some legal issues raised by the applicant staring with the liability of 1st respondent. The applicant claims that he was serving both parties during his employment in a situation which brought confusion to him. To ascertain who was the actual employer of the applicant, the terms of the contract of employment would be the best determinants. However, there are strange scenario in this matter. The terms are contained in a letter dated **22nd June 2015** which was admitted in the CMA as **Kielelezo A1 collectively.** Although the terms indicate that the appointment agreement is between the Applicant and the 2nd Respondent, I will give some facts which indicate a confusing involvement of the 2nd respondent in the employment relationship with the Applicant. This letter of **22nd June 2015 (Kielelezo A1)** originates from the 1st Respondent, but it was signed by the chairman of the borad of directors for the 2nd Respondent wishing the applicant a delivery to the expectation of the 1st Respondent and to have a pleasant carrier at the 2nd Respondent. This leaves unanswered

questions in my mind to who actually employed the applicant between the 1st respondent whose office the letter of appointment originates and whose expectations need to me met or the 2nd Respondent whose behalf the letter was signed and where will be the placement of the applicant?

While contemplating the above questions, something more confusing comes around to makes the matter more puzzling. This is the letter of suspension dated **16th March 2020** which appears to originate from the 1st Respondent and signed by the Chief Executive Officer of the same 1st Respondent **(Exhibit A3 collectively)**. The same suspension was lifted by a letter from the office of the 1st Respondent dated **16th July 2020** which was as well signed by the Chief Executive Officer of the 1st Respondent **(Exhibit A4)**. Again, on **22 July 2020**, the Applicant was once again suspended by a letter from the 2nd Respondent **(Exhibit A6 (ii) collectively)** and the letter for disciplinary hearing was from Afya Microfinance, 2nd Respondent but signed on behalf of the 1st Respondent **(Exhibit A6(i) Collectively)**. He was finally terminated by the 2nd Respondent.

The arbitrator formed opinion that since the placement of the Applicant was in the office of the 2nd Respondent and that the 2nd Respondent was paying the salary, then the applicant must have

been the employee of the 2nd in exclusion of the 1st Respondent. I tend to disagree with the arbitrator. The reason is that the involvement of the 1st respondents was so close to the employment relationship that a concise explanation should be given as to why this happened. An explanation should have been given as to what kind of a relationship which caused a flow of correspondences between the 1st Respondent and the Applicant in the employment relationship. Exonerating the 1st Applicant from liability may be to the detriment of the detriment of the Applicant who may not know what is hidden behind this confusing scenario. This explanation ought to be given by the employer who has the duty to prove the clarity of employment record under **Section 60 (1) (a) of the Labour Institutions Act, Cap 300 of 2019 R.E.** It provides:-

> *"60.-(1) In any proceedings concerning a contravention of any labour law, it shall be for the employer-*
>
> *(a) to prove that a record maintained by or for that employer is valid and accurate;"*

As to why the employment contract contained the headed paper of the 1st Respondent, DW1 explained that the 1st Respondent was the agent of the 2nd Respondent by the time when the Applicant was being employed. He stated further that by that time the 2nd

Respondent was in the process of incorporation and the applicant was among the first employees.

As to why the 1st Respondent continued to correspond with the Applicant as her employee including issuance of the suspension letter and lifting of it even during 2020 when the second respondent was already 5 years in employment, there is no proper explanation. Since it is the employer's duty to prove the authenticity of employment record, the confusion caused by the 1st Respondent while working as an agent, if so, should be interpreted against her and not to the detriment of the Applicant.

Section 61 of Cap 300 assumes employment relationship when this kind of a situation is in place. It provides:-

> *"61. For the purposes of a labour law, a person who works for, or renders services to, any other person is presumed, until the contrary is proved, to be an employee, regardless of the form of the contract, if any one or more of the following factors is present-*
>
> > *(a) the manner in which the person works is subject to the control or direction of another person;*

The letter of suspension and the lifting of the suspension are evidence of a person working under direction of the other. This corresponds to what is in the contract that the applicant was to work to meet the expectations of the 1st respondent. From what I have said above, I agree with the Applicant's counsel that the respondent cannot escape the responsibility emanating from the employment relationship that involved the Applicant. Even the contract states that the applicant will be working to the expectation of the 1st Respondent. Both the 1st Respondent and the 2nd Respondent should be jointly and severally responsible for the employment of the applicant because the Applicant was serving both.

The second point of law concerns the competence of the Respondents' counsel to represent the respondents in this matter. I agree with the counsel for the Respondent that the Applicant did not raise this matter in the CMA. It is a new thing which cannot be determined at this stage of revision. The point is therefore unfounded as it is considered as an afterthought by the Applicant.

I now address two aspects of termination as a core centre of the parties' debate. Starting with the first aspect regarding the fairness of the reasons for termination, the applicant contended that the arbitrator erred in law in his findings by holding that there was a valid

reason for termination without any tangible evidence or witness to support the allegation of stealing. He is of the view that there was no valid and fair reason of terminating his employment contract.

On the other side the respondent maintained that the applicant was charged with three offences, and he was found guilty with two of them. He stated that among the offences the Applicant was charged with and found guilty was conflict of interest and gross dishonesty, and in proving these offences four witness were called plus evidence which was tendered at CMA all confirming the acts of the applicant which constitute the misconduct. In his view, the arbitrator was properly guided by evidence to find fair reasons of termination.

In addressing substantive fairness, reference is made to **Section 37 of the Employment and Labour Relations Act, Cap 366 R.E 2019** which makes it unlawful for an employer to terminate the employment of an employee unfairly. That sections 37 and 39 of Cap 366 of 2019 R.E place the burden to prove the fairness of the termination upon the employer. **Section 37 (1) and (2)** reads as follows: -

> *"37 (1) It shall be unlawful for an employee to terminate employment of an employee unfairly, (2) A termination of*

employment by an employer is unfair if the employer fails to prove-

(a) That the reason for termination is valid;

(b) That the reason is a fair reason

(i) Related to the employee's conduct, capacity or compatibility; or

(ii) Based on the operational requirements of the employer, and

(c) That the employment was terminated in accordance with a fair procedure."

It is on record that the applicant was charged with the offences of gross dishonesty and conflict of interest as per the charge sheet (**exhibit A6**). He was alleged that a client named EFATA applied for a loan from respondents and the loan was offered but it was later on found that the loan money was not issued to the right applicant, EFATHA. It is on record as per DW1 that investigation was carried as per **Exhibit D-4** (investigation report) where one William Sebesebe who was the employee of EFATA made a statement that the loan was not delivered to EFATA as per the application form which was in the name of William Sebesebe but was disbursed via account No.

convicted. I am of the view that all these circumstances justify the Respondent's reasons to terminate the Applicant from the employment.

As to why the Applicant was not given warning as he questioned, the respondent is of the view that taking into account the position the applicant held and the nature of the respondents' business of financial lending, institutional integrity is essential. I subscribe to the Applicant's argument taking into consideration the position in **Sophia Mohamed Hango cited** supra by the counsel for the Respondents. In my view, the most appropriate measure was to terminate the Applicant to restore the integrity of the Respondents. I further agree with the Respondents' counsel because gross dishonesty is one of the disciplinary offences which warrants termination of employment in accordance with the **Rule 12 (3) of the Employment and Labour Relations (Code of Good practice) Rules 2007, GN No 42 of 2007.**

Under such circumstances I do not agree with the applicant's claim that there was no evidence to prove validity and fairness of the reason for termination. On this issue of fairness of reason, it is my holding that the arbitrator was correct to hold that there were valid and fair reasons for termination of the Applicant's employment.

Having found that there were valid and fair reasons for the termination of the applicant's employment, the next question is on procedural aspect. In the CMA, it was found that the applicant's termination was procedurally fair but the applicant is aggrieved by that decision. According to the Applicant, the procedure was not fair. The reasons given by the Applicant based on assertions that investigation was not conducted, the committee was biased, the Respondents' advocate played two conflicting roles and the copy of investigation report if conducted, was not given to the applicant.

Since the termination was based on misconduct the relevant provision is **Rule 13 of GN 42 of 2007**. To start with the lack of the investigation I find it worth to reproduce subrule (1) of this provision which provides; -

> *"13(1) The employer shall conduct an investigation to ascertain whether there are grounds for a hearing to be held."*

From the above provision it is mandatory to investigate a disciplinary allegation prior to holding a disciplinary hearing. In this application the record shows that the investigation was done as per **Exhibit D-4** (investigation report). Therefore, the applicant's allegation

show how the Ndiege's signing of suspension letter and the termination letter impaired the impartiality of the process if he did not participate in the disciplinary committee and in the investigation. It is on this question I find the Applicant's argument on the impartiality to be unfounded.

Regarding the allegation of the Applicant not being served with the copy of investigation report, it is true the evidence reveals nothing as to whether the applicant was served with the copy of the investigation report before hearing. Advocate Mlisi submitted that the issue was not raised in the CMA hence it cannot be discussed in this revision application. He submitted alternatively that an investigation report is not mentioned by **Rule 11 (6) and Rules 13 (2) to 13 (13)** to be among the documents which must be availed to the employee before disciplinary hearing.

First of all, I do not agree with the Respondent's counsel that this matter was not brought to the attention of the arbitrator. I should point out that the employer has a duty to prove the fairness of the disciplinary process including to provide evidence to show that the law was complied with. Whether the procedure for termination was fair was among the issues which were considered by the arbitrator. He ought to have considered the matter even if not raised by the

Applicant. It is on this reason I find that this court is placed at a position to consider it at the revision stage. Secondly, whether the investigation is necessary. It is an established principle in our jurisprudence that an investigation report needs to be served to an employee before commencing a disciplinary hearing to enable such employee to be prepared for the hearing. (See **Higher Education Loans Board's Case cited by the Applicant (supra).** Since this was not done, then it was an error which tainted the disciplinary process.

From the above legal findings, I have to say the termination was substantively fair and unfair on the procedural aspects only for having the investigation report not availed to the Applicant for preparation for the disciplinary hearing. The first issue is therefore answered that the Applicant has not made sufficient grounds to warrant interference of the CMA award except for the issue of procedure caused by failure to avail the investigation report to the Applicant prior to disciplinary hearing.

Regarding relief, having found that the only horror on the part of the arbitrator was the failure to avail the investigation report, a token should be awarded to the Applicant as compensation for that error in the procedure of termination. I will be guided by the principle in the

case of **Felician Rutwaza versus World vision Tanzania, Civil Appeal No. 213 of 2019, CAT, at Bukoba (Reported in TanzLii).** In estimating the payable compensation. In this case, the Court of Appeal confirmed a position that where the unfairness of termination is only on minor procedural error, then the employee can be awarded with compensation less than the minimum provided under **Section 40 of Cap 366 R.E 2019.**

On the above reasoning, I hereby revise and vary the award of the Commission for Mediation and Arbitration by awarding the Applicant only one month remuneration and other terminal benefits if not paid, for being terminated with a minor procedural irregularity. Therefore, the application is partly allowed as discussed herein. Each party to take care of its own cost.

It is so ordered.

Dated at Dar es Salaam this 4th day of May 2023.

KATARINA REVOCATI MTEULE

JUDGE

04/05/2023