

TANZANIA / JUDGMENT

robert joseph another vs tusiime holdings t ltd 2022 tzhcld 784 3 june 2022

COURT
TANZLIIDECIDED
3 June 2022

Source: media.tanzlii.org · Research copy typeset by Esheria. Not court-issued or certified.

IN THE HIGH COURT OF TANZANIA LABOUR DIVISION AT DAR ES_SALAM REVISION NO. 422
OF 2021 BETWEEN ROBERT JOSEPH & ANOTHER..... APPLICANTS VERSUS
TUSIIME HOLDINGS (T) LTD..... RESPONDENT

RULING

03rd June, 2022 & 03 June, 2022 K. T. R. MTEULE, J. This is a Ruling to a preliminary objection raised by the respondent's counsel to challenge the competence of this application for contravening Regulation 34 of GN. No. 47 of 2017. According the Mr. Ndelwa Advocate who appears for the respondent, the applicant has never filed a notice of intention to file this revision and therefore the said revision is incompetent. He added that the wording of Regulation 34 of GN. No. 47 of 2017 contains mandatory requirement by using the word "shall" for the said notice to be lodged in the CMA before filing a revision. Mr. Ndelwa cited two authorities which struck out applications for revision for having been incompetent due to non- 1 filing of the notice of intention to lodge revision. The said decision are:- I) Arafat Benjamin Mbilikila Vs. NMB Bank PLC, Rev.No. 438 of 2020, High Court Labour Division page 8 - 9.

- 2) Anthony John Kazembe Vs. Inter Testing Services (EA) PTY Ltd. Rev. Appl. No. 391 of 2021, High court Labour Division page 6. In his view the application needs to be struck out for being incompetent. On the other hand the counsel for the applicant Mr. Maguha submitted that the provisions of Rule 24 under which this revision application is brought do not provide for that requirement to have the notice of intention to lodge revision to be presented. Mr. Maguha defended the propriety of this application by relying on the order of this court which allowed refiling of this application after the striking out of the previous one which was defective. In his view, this court is bound by the order which granted the refiling of the struck out application. 2 I have considered the arguments from both parties. The provision of law which is in question is Regulation 34 of GN. 47 of 2017. The applicant has not responded on this argument of contravention with Regulation 34 of GN. 47 of 2017. I take it as unchallenged. It is true of Provision of Regulation 34 of GN. 47 of 2017 uses the word shall to require all the forms under the said Regulations to be used in their respective matters. The applicant's argument that the previous order of this court which allowed refiling made the notice not mandatory was also considered. With due respect, the decision

named has never exempted the applicant from lodging the mandatory notice of intention to file this revision. The order only allowed to refile the application. The assumption is that filing of the said revision application needed to comply with all the legal procedural requirements including the mandatory notice of intention to file revision application. I borrow leaf from the decisions of my fellow judges who found the lack of this notice to be a fatal defect as cited by the respondent's 3 counsel in the Arafat and Anthony Kazembe cases. In the strength of these decisions, I find the preliminary objection meritorious. Consequently this application is fatally defective and therefore it is struck out. It is so ordered. KATARINA REVOCATI MTEULE JUDGE 03/06/2022 Court: Ruling delivered this 03rd day of June, 2022 in the presence of Mr. Bernard Maguha, Advocate and Beatrice Kalumba, Advocate for the Applicant and Mr. Lwijiso Ndelwa, Advocate for the respondent. KATARINA REVOCATI MTEULE JUDGE 03/06/2022 4

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE	https://media.tanzlii.org/media/judgment/151192/source_file/robert-joseph-another-vs-tusiime-holdings-t-ltd-2022-tzhcld-784-3-june-2022.pdf
CASE PAGE	https://chat.esheria.ai/case-law/tanzania/robert-joseph-another-v-tusiime-holdings-t-ltd-preliminaryobjection-tanzlii-2022

Prepared on 14 October 2026 · Esheria