

**IN THE HIGH COURT OF TANZANIA  
(MAIN REGISTRY)**

**AT DAR ES SALAAM**

**MISC. CIVIL APPLICATION NO. 06 OF 2021**

**REV. JOHN MATHIAS CHAMBI & 548 OTHERS .....APPLICANTS**

**VERSUS**

**REGISTRAR GENERAL.....1<sup>st</sup> RESPONDENT  
(Registration Insolvency and  
Trusteeship Agency)**

**HON. ATTORNEY GENERAL.....2<sup>nd</sup> RESPONDENT**

**REV. JOSHUA B. WAWA.....3<sup>rd</sup> RESPONDENT**

**REV. CHRISTOMOO ISACK NGOWI.....4<sup>th</sup> RESPONDENT**

**REV. KENETH KASUGA.....5<sup>th</sup> RESPONDENT**

**REV. PETER MADAHA.....6<sup>th</sup> RESPONDENT**

**RULING**

*22/09/2021 & 27/10/2021*

**Masoud, J.**

With their chamber summons supported by an affidavit of Peter Robert Rutaihwa, advocate for the applicants, the above-named applicants brought under section 5(1)(c) of the Appellate Jurisdiction Act, cap. 141 R.E 2021 and rule 45(a) of the Tanzania Court of Appeal Rules, the present application seeking leave of the Court to Appeal to appeal

against the ruling and order of this court in Misc. Cause No. 21 of 2020 of 4/6/2021. The application is opposed by the respondents who filed counter affidavits.

The hearing of the application was by filing written submissions as per the schedule set by the court. The written submissions were duly filed and are on the record. From the submissions, an issue arose as to whether there is a fit case for granting leave to the applicants to appeal to the Court of Appeal against the decision of this court in Misc. Cause No. 21 of 2020 of 4/6/2021. To be clear, the decision was on the preliminary objection which was successfully raised, argued and determined against the applicants.

It was shown and not disputed that the applicants have taken necessary steps for appealing against the above-mentioned decision, save for leave of this court which is hereby sought. It was also shown that if the leave was to be granted, the applicants would invite the Court of Appeal to address itself to issues specified in paragraph 6 of the affidavits. They are firstly, whether under the circumstances of the matter the mere misnaming of a party initiates the entire application; and whether the question of locus standi is properly determinable as a preliminary issue.

In respect of the above issues, the first and second respondent were of the view that the court properly determined the issues and properly struck out the matter against the applicants as it was filed against a non-existing party and against persons who had no locus standi. More or less similar opinion was shared by the other respondents as also reflected in their counter affidavit.

The rival submissions, by and large, reflected the averments in the affidavits and counter affidavits. It was clear that while the applicants were showing that there were serious issues that needed the attention of the Court of Appeal, the respondents were of the view that there were no issues that need to be taken to the court of appeal for determination. Needless to mention, I was referred to a good number of authorities by both sides of the application. I truly sought guidance and inspiration from the authorities.


In my resolve and having considered the arguments, I was convinced that the rival arguments reinforced the applicants' arguments that there were issues which warrant the granting of the leave by the court. In view of my jurisdiction at this stage, I could not look at the issues and

determine them in the light of what the parties are saying in relation to the issues. It only suffices to say that in so far as I am convinced that the issues are worthwhile for determination by the court of Appeal, I am also satisfied about their importance in the context of the matter at stake.

In the end, and with the above reasoning, the application for leave to appeal to the Court of Appeal is herein granted. Costs will be in the cause. I order accordingly.

Dated and Delivered at Dar es Salaam this 27<sup>th</sup> Day of October 2021.



  
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**B. S. Masoud**  
**Judge**