

IN THE HIGH COURT OF TANZANIA

(COMMERCIAL DIVISION)

AT DAR ES SALAAM

MISC. COMMERCIAL CAUSE NO. 410 OF 2017

(ARISING FROM MISC. COMMERCIAL CAUSE NO. 342 OF 2017)

IN THE MATTER OF THE ARBITRATION

AND

IN THE MATTER OF THE ARBITRATION ACT (CAP. 15. R.E 2002)

AND

**IN THE MATTER OF AN APPLICATION UNDER SECTION 30 (3) OF THE
ARBITRATION ACT CAP 15. R.E 2002**

BETWEEN

A-ONE PRODUCS AND BOTTLES LIMITED PETITIONER

VERSUS

GUANZHOU TECHLONG

PACKAGING MACHINERY LTD 1ST RESPONDENT

HONG KONG HUA YUN INDUSTRIAL LTD 2ND RESPONDENT

RULING

MRUMA, J:

Object is overruled. Rule 17 of Order VI of the CPC gives this court discretion to allow either party to amend and/or alter its pleadings in such manner and on such terms as may be just and necessary for the purposes of determining the real question in controversy between the parties.

According to the counsel for the petitioner, the amendment the petitioner is seeking to take aboard new development brought about by the ruling of Chinese Court. Neither this court nor the Respondent's counsel has seen the amended petition so as to decide what the cause of action is in the intended amended petition. Because in law, a petition is equated to a suit, and under Rule 16 of Order VI of the CPC amendment can be allowed at any stage of the proceedings, I agree with Dr. Lamwai counsel for the petitioner that the objection to the amendment has been raised rather prematurely.

The Respondent's counsel should reserve her objections up till such time when she will see the amendments and see whether it has violated any law of procedure or not.

Thus, in the circumstance I will allow the oral application pursuant to Rule 2(2) of the High Court (Commercial Division) Procedure Rules, the provision to Rule 2 of Order 43, and Rule 17 of Order VI of the CPC and order the counsel to file his amended petition within seven (7) days from the date of this order.

Order:

Mention for orders on 19th July, 2018 at 9:30 am, amended petition to be filed within seven (7) days from today.



A handwritten signature in blue ink, appearing to read "A. R. Mruma".

A. R. Mruma,

Judge

20/06/ 2018