

**IN THE COURT OF APPEAL OF TANZANIA**

**AT DAR ES SALAAM**

**(CORAM: LUANDA, J.A., MUSSA, J.A. And MUGASHA, J.A.)**

**CIVIL APPLICATION NO. 249 OF 2015**

1. JENGA SAID  
2. YAHAYA KAGUNA  
3. PIUS MAPIMA } .....APPLICANTS

**VERSUS**

1. BLANKET MANUFACTURERS  
2. PRESIDENTIAL PARASTATAL  
SECTOR REFORM COMMISSION } .....RESPONDENTS

(Application for removing 2<sup>nd</sup> respondent and impleading the Treasury Registrar from the Judgment and decision of the High Court of Tanzania at Dar es Salaam)

**(Mandia,J.)**

**dated the 10<sup>th</sup> day of August,2007**

**in**

**Civil Case No. 370 of 2000**

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**RULING OF THE COURT**

14<sup>th</sup> & 21<sup>st</sup> February, 2017

**MUGASHA, J.A.:**

The applicants, JENGA SAID, YAHAYA KAGUNA and PIUS MAPIMA have brought this application requesting the Court to remove the 2<sup>nd</sup> respondent, PRESIDENTIAL PARASTATAL SECTOR REFORM COMMISSION (PSRC) and substitute her with the TREASURY REGISTRAR. The application is by Notice of Motion brought under rule 4(2) (a) and (b) the Tanzania Court of Appeal

Rules, 2009 the Rules. The application is sought on ground that: the dissolution of the Consolidated Holding Corporation (**CHC**) which initially took over assets and liabilities of the 2<sup>nd</sup> respondent (**PSRC**) by virtue of National Bank of Commerce (Re-organisation and Vesting of Assets and Liabilities) (Consolidated Holding)(Dissolution) Order, G.N No 203 of 2014 of 27<sup>th</sup> June, 2014.

The application is supported by the affidavit of **PIUS MAPIMA** one of the applicants. In his affidavit, he has deposed that, the removal of the 2<sup>nd</sup> respondent now defunct, and substituting it with the **TREASURY REGISTRAR** will pave way for the hearing of the applicants' Civil Appeal No. 37 of 2008 which is pending before the Court.

A brief factual background giving rise to the application as gathered from the affidavital evidence is as follows: The applicants are appellants in Civil Appeal No. 37 of 2008 which could not proceed for the hearing because: **One**, the 1<sup>st</sup> respondent was declared a specified corporation and placed under the 2<sup>nd</sup> respondent. **Two**, subsequently, the 2<sup>nd</sup> respondent was also dissolved and placed under the Consolidated Holding Corporation by virtue of the National Bank of Commerce( Re-organisation and Vesting of Assets and Liabilities) Act [**CAP 404 RE.2002**]. **Three**, on 27<sup>th</sup> June, 2014

the Consolidated Holding Corporation was dissolved and its assets and liabilities transferred and vested in the Treasury Registrar in terms of G.N No. 203 of 2014. This is what made the applicants to bring the present application seeking to remove the current 2<sup>nd</sup> respondent and implead the Treasury Registrar as a substitute.

At the hearing of the application, the applicants were represented by Mr. Majura Magafu learned Counsel and the respondents were represented by Mr. Haruni Matagane, learned Senior State Attorney.

Mr. Majura Magafu adopted the contents of the affidavit and prayed for the grant of the application which was not objected by the learned Senior State Attorney. However, when prompted by the Court Mr. Haruni Matagane submitted that since the Treasury Registrar is a Government Institution, the Attorney General must be impleaded.

In terms of paragraph 3 of the Dissolution Order, Government Notice No.203 of 27/6/2014, the 2<sup>nd</sup> respondent ceased to exist by virtue of operation of the law with effect from 30<sup>th</sup> June, 2014. Moreover, in terms of paragraph 5 of the Dissolution Order, the 2<sup>nd</sup> respondent's assets and liabilities were transferred and now vest in the Treasury Registrar who is as

well mandated to deal with all matters relevant to the dissolution of the defunct Corporation.

In our considered view, the application is merited because Civil Appeal No. 38 of 2008 which is pending before the Court cannot proceed to hearing without impleading the Treasury Registrar as respondent. In this regard, we hereby order that, **PSRC** be removed and instead the Treasury Registrar be impleaded as 2<sup>nd</sup> respondent in Civil Appeal No 38 of 2008. Since the Treasury Registrar is a Government Institution, guided by the Government Proceedings Act, we further direct that the Attorney General also be joined as respondent. We make no order as to costs.

This order must be effected within fourteen (14) days from the date of this Order.

**DATED at DAR ES SALAAM** this 15<sup>th</sup> day of February, 2017.

B.M. LUANDA

**JUSTICE OF APPEAL**

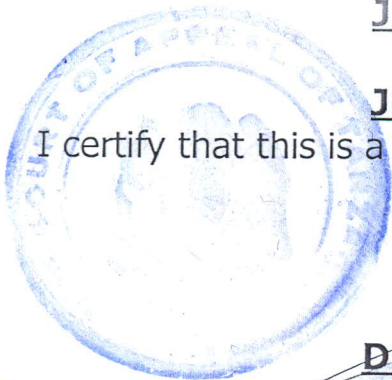
K.M. MUSSA

**JUSTICE OF APPEAL**

S.E.A. MUGASHA

**JUSTICE OF APPEAL**

I certify that this is a true copy of the original.



E.Y. MKWIZU

**DEPUTY REGISTRAR**  
**COURT OF APPEAL**