

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(ARUSHA DISTRICT REGISTRY)

AT ARUSHA

MISC. LAND CASE APPLICATION NO. 41 OF 2018

**HON. MINISTER FOR LANDS, HOUSING AND HUMAN
SETTLEMENTS DEVELOPMENT ----- APPELLANT**

VERUS

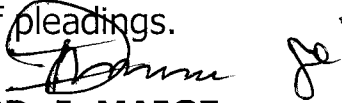
TANZANIA PLANTATIONS LIMITED ----- RESPONDENT

RULING

In this matter, the applicant has applied for two orders namely; departure from the speed truck of the case and amendment of pleadings. The respondent through advocates Mughwai and Desuza contested the maintainability of the application on account of being preferred under a wrong provision of law.

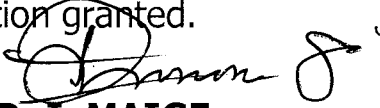
In their long submissions supported by numerous authorities, I have observed, the counsel for the respondents, I have observed, object only to the prayer as to amendment of pleadings which is at issue. The maintainability of the first prayer seems not to be doubted. In his brief submissions, Mr. Nyakiha, speaking for the applicant appears to concede to the preliminary objection in so far as it relates to the second prayer but denies that the first prayer is also not maintainable in law.

I entirely subscribe to the counsel for the respondents that the provision of order VIIIA rule 4 is incapable of moving the Court for the grant of an order for amendment. Neither is section 95 of the CPC. I nevertheless, I agree with the counsel for the applicant that the said provision is an enabling provision for amendment of and departure from speed. On that account, I will sustain the preliminary objection in respect of the second prayer and grant the first prayer. The scheduling order made on the first PTC is hereby departed from so that the applicant can be permitted to file an application for amendment of pleadings.


SGD: I. MAIGE
JUDGE
16/10/2018

Court: ruling delivered. Application granted.




SGD: I. MAIGE
JUDGE
16/10/2018