

<b>Citation</b>	<b>Parties</b>	<b>Legal Principles Discussed</b>
Civil Application No.14/2003 COURT OF APPEAL OF TANZANIA at Dar es Salaam – Munuo, J.A, Msoffe, J.A and Kimaro J.A	NIC (T) LIMITED Vs. ABDALLA MAKUNGANYA an application for revision from the decision of the High Court of Tanzania at Dar es Salaam by Bubeshi, J.	A notice of motion under the provision of section 4(3) of the Appellate Jurisdiction Act, 1979 as amended by Act No. 17 of 1993 and Rule 3(2) of the Tanzania Court of Appeal Rules, 1979.

**IN THE COURT OF APPEAL OF TANZANIA  
AT DAR ES SALAAM**

**(CORAM: MUNUO, J,A, MSOFFE, J,A, AND KIMARO, J,A,)**

**CIVIL APPLICATION NO. 14 OF 2003**

**NIC (T) LIMITED.....APPLICANT**

**VERSUS**

**ABDALLA MAKUNGANYA.....RESPONDENT**

**(Application for Revision from the Decision of the High Court  
of Tanzania at Dar es Salaam)**

**(Bubeshi, J.)**

**dated the 13<sup>th</sup> day of February, 2003**

**in**

**Civil Case No. 259 of 1992**

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**RULING OF THE COURT:**

13 February & 12 March, 2007:

**MUNUO, J.A.:**

Initially, the applicant, NIC (T) Ltd, through the services of Mr. Mbamba, learned advocate, brought a Notice of Motion under the provisions of Section 4 (3) of the Appellate Jurisdiction Act, 1979 as amended by Act No. 17 of 1993 read together with Rule 3 (2) (b) of the Tanzania Court of Appeal Rules, 1979, seeking revision of the Order of the High Court of Tanzania at Dar es Salaam on the 13<sup>th</sup> February, 2003 in Civil Case No. 258 of 1992, by Bubeshi, J. which Order allegedly awarded double costs to the respondent thereby unjustly enriching him.

Before the revision was heard, counsel for the applicant filed a Notice on the 29<sup>th</sup> January, 2007 seeking leave to join the Presidential Parastatal Sector Reform Commission (PSRC), the receiver of NIC (T) Ltd. which has since been privatized under 330 A/1998, Section 38 (1) and 43 (1) of the Public Corporation Act, 1992 as amended by Act No. 16 of 1998, and the Public Corporation (Specified Corporations Declaration) Order, 1998.

While counsel for the applicant sought leave to join the PSRC, Mr. Nyangarika, learned advocate for the respondent, filed a preliminary objection seeking to strike out the applicant's notice for joining PSRC on the ground that the applicant has no locus standi to institute the application for revision.

Counsel for the applicant complained that the preliminary objection is intended to circumvent the applicant's notice for leave to amend the pleadings by joining the PSRC, the official receiver of the applicant. Counsel for the respondent, on the other hand, contended that the Notice should have been specifically for leave to amend the pleadings and not for adjournment.

With respect, this trivial matter ought not detain us. The notice filed on the 29<sup>th</sup> January, 2007 speaks for itself: the gist of the notice is to seek leave to join the PSRC. In that regard, the preliminary objection is intended to pre-empt the sought leave. Under the circumstances, we find no substance in the preliminary objection. We accordingly grant the applicant leave to amend the notice of motion by joining the PSRC pursuant to the provisions of Rule 92 (3)

of the Court of Appeal Rules, 1979, within thirty days from today.

The application is adjourned to the next sessions.

DATED at DAR ES SALAAM this 12<sup>th</sup> day of March, 2007.

**E. N. MUNUO**  
**JUSTICE OF APPEAL**

**J. H. MSOFFE**  
**JUSTICE OF APPEAL**

**N. P. KIMARO**  
**JUSTICE OF APPEAL**

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

**I. P. KITUSI**  
**AG. DEPUTY REGISTRAR**