

IN THE FAIR COMPETITION TRIBUNAL

AT DAR ES SALAAM

TRIBUNAL APPEAL NO. 18 OF 2019



**HAPPINESS PHILLO MBELE (AS NEXT FRIEND OF
IBRAHIM SWEDI ZAKARIA) APPELLANT**

VERSUS

TANZANIA ELECTRIC CO. LTD

(TANESCO)1ST RESPONDENT

ENERGY AND WATER UTILITIES REGULATORY

AUTHORITY (EWURA).....2ND RESPONDENT

ORDER

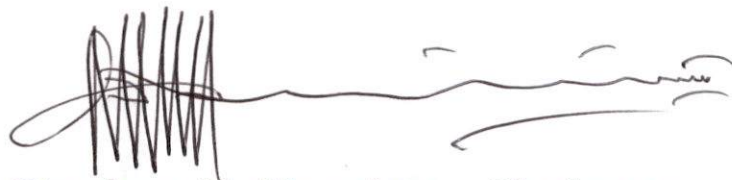
When this appeal was called for hearing today, the Tribunal *suo motto* moved the learned counsel for appellant Mr. Ndyetabula to address the Tribunal of the competency of this appeal before the Tribunal in the light of Rule 11(6) of this Tribunal's Rules. Mr. Ndyetabula upon reading Rule 11(6) of the Rules conceded that the appeal is incompetent for want of essential documents namely pleadings and exhibits tendered. In the circumstances, he prayed that this appeal be struck out with leave to refile the same. Mr. Mwabulambo and Ms. Hawa Lweno had the same view save that they objected to the prayer for leave to refile the

appeal on reason that once it is struck out, there is no way leave to refile can be granted because it is already out of time.

Indeed, the instant record of appeal in support of this appeal is incompetent as noted by the Tribunal and conceded by all parties.

In the circumstances, and without much ado, the instant appeal is incompetent for contravening the provisions of Rule 11(6) of the FCT Rules. In that vein the same is hereby struck out with no order as to costs as the respondent's counsel did not press for the same and the incompetence was raised by the Tribunal *suo motto*.

The prayer for leave is rejected as is misconceived in the circumstances we have now. Order accordingly.



Hon. Judge Stephen M. Magoiga – Chairman



Hon. Butamo K. Phillip – Member



Hon. Dr. Theodora Mwenegoha – Member

24/04/2020