



## **THIRD PARTY PROCEDURE IN TANZANIA.**

### **INTRODUCTION**

A third-party procedure refers to the procedure in a civil suit whereby a defendant is given room to join another person who is not a party to suit as a co-defendant into the suit on the grounds that he/she (the defendant) has a legally recognized claim against that other person called the Third-Party.

Order I Rules 14-23 of the Civil Procedure Code [CAP 33 R: E 2022] provides for the third-party procedure in Tanzania.

The main purpose of the third-party procedure is to prevent a multiplicity of actions which means, instead of the defendant suing the third party in a separate suit that consists of a similar cause of action, the law allows a part to a suit join a third party in the pending suit.

### **CONDITIONS FOR JOINING A THIRD PARTY TO THE SUIT**

According to Order 1 Rule 14 of Cap. 33, a defendant in a suit shall not exercise the option to join any person as a Third-Party into the suit unless the following facts exist cumulatively:-

1. That the person to be joined is indeed not a party to the suit.
2. That the defendant who wants to join such another person (Third-party) claims for the third party.
3. That the defendant claims from the third party for any contribution or indemnity.
4. That the claim by the defendant is related to or connected with the subject matter of the suit and substantially the same as a relief or remedy claimed by the plaintiff.

### **PROCEDURE FOR JOINING A THIRD PARTY INTO THE SUIT**

Seek court leave to file a third-party notice.

In Tanzania, the defendant who wants to join a third party in the suit must first apply to the court for and obtain leave to present to the court a third-party notice before he/she is successful in the mission. Practically, the application for leave is made through filling a chamber summons supported by an affidavit and such an application must be ex-parte unless the court otherwise directs.

### **NB:**



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The defendant's application to the court for leave to present a third-party notice is an application like any other application. Once the court has been satisfied with the application, it may order the defendant to file his third-party notice as prayed or dismiss such an application. The third-party notice so presented must be served to all the parties to the suit including the third party himself as if it is a pleading and it must be signed by the Judge or Magistrate or any authorized officer and shall be sealed with the seal of the court.

### **THE CONTENTS OF AN AFFIDAVIT SUPPORTING AN APPLICATION FOR LEAVE TO PRESENT A THIRD-PARTY NOTICE**

Order 1 Rule 15 of Cap. 33 provides for the contents to be filed within an affidavit supporting the application for leave to present a third-party notice, including the following:-

1. The nature of the claim made by the plaintiff in the suit
2. The stage which the proceedings in the suit have reached
3. The nature of the claim made by the applicant against the third party and its relationship to the plaintiff's claim against the applicant (defendant)
4. The name and address of the third-party.

### **NB:**

Upon receipt of the notice, the third party may exercise any of two options if he objects to the claim; he may directly file a defense disputing the plaintiff's claim or he may file a defense against the defendant's claim (who presented the notice). He must exercise either of the two options within 21 days from the service of the notice or within the period that the court will provide (Order 1 Rule 17 of Cap. 33)

### **TIME LIMITATION UNDER THIRD-PARTY PROCEDURE**

In Tanzania, According to Order, I Rule 21, of Cap.33, the limitation of time as provided for by the Civil Procedure Code and the Law of Limitation Act, apply mutatis mutandis to the third-party procedure. Under these instructions of the law, therefore, the limitation of time in respect of the third-party procedure applies as if;

1. The third-party notice was a summons to defend
2. The defendant presenting the notice was a plaintiff and the third party was a defendant
3. The date fixed for the giving of the direction was a date fixed for the hearing of a suit



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4. Judgment entered against the third party in accordance with the provisions of Order I Rule 19 was an ex parte judgment entered against a defendant in a suit

### **CONCLUSION**

In Tanzania, the law recognizes a third party procedure served with a third party notice by a defendant in a suit and is silent upon the fourth party and fifth party notice. Further, as it is in normal cases, the court is binded by powers to decide all questions of costs between a third party and other parties to a suit, under the circumstances it may make such orders as to costs as it may think fit.