* **Analysis of applicable law**

**My Lord,**

There various laws which support our arguments as on the case of **Atilio V Mbowe (1969) HCD 284** Read together with the case of **Giella V Cassman Brown & Co. Ltd. [1973]E.A.** 359 which stipulates for the condition for the Court to grant injunction which are

“*first there must be a serious question to be tried by the Court, and a probability that the Plaintiff will be entitled to the relief prayed for (in the main suit), Second that the temporary injunction sought is necessary in order to prevent some irreparable injury Befalling the Plaintiff while the main case is still pending, and third, that, on the balance, greater hardship and Mischief is likely to be suffered by the Plaintiff if temporary injunction is withheld than may be suffered by the Defendant if the order is granted”.*

As on the condition of set for person to be granted injunction fit in this case as there are probability of the applicant to get relief on the arbitration as the respondent breach the contract entered between them as the ground stated above,

Moreover injunction can prevent injury befalling the applicant while the case is pending, as on the case of **T. A. Kaare V. General Manager Mara Cooperative Union**, [1987] TLR 17, the court is required to consider whether there is a need to protect either of the parties from the species of injuries known as irreparable injury before Right of the parties is determined. Sohoni's Law of Injunction, Second Edition, 2003 at page 93 that: -"As the injunction is granted during the pendency of the suit the court wiii interfere to protect the piaintiff from injuries which are irreparable.

Furthermore if injunction will be granted will balance, hardship and mischief which the applicant will be likely to be suffered Sohoni’s Law of Injunction, Second Edition, 2003 at page 93 that, the court is required to balance and weigh the mischief or inconvenience to either side before issuing or withholding the injunction.

I will borrow the wise Mgonya J on the case of Ramla Aziz Msuya V Equity Bank (T) LTD and others Misc Land Application No 28 of 2021 stated that “I will hold that this is a fit case for Temporary Injunction because all the Conditions for granting Temporary Injunction have been met”

Furthermore, Al Outdoor Tanzania Ltd V Alliance Media Tanzania Ltd, Commercial Case No.25 of 2005 HC Commercial Division at Dar es Salaam, where it was stated that, a temporary injunction is an equitable remedy and whoever come to the equity must come with clean hands. Therefore, applicant has come to equity with no wrong done on its part because it has never breached the agreement.

OIL COM TZ LTD V CHRISTOPHER AND 5 OTHERS

In reference ,This case involved land dispute in which the application is made by way of chamber of summons under 2[3] of the Judicature and Application of laws Act and section 95 and 68[e] of The Civil Procedure Code supported by affidavit which is opposed by all respondents. The Applicant claim to be the lawful owner of a farm comprised of some plots registered under certificate of title NO.12210 MBYRL issued in 2008 in which in contrast where the 1st respondent also claims ownership over the same piece of land but with title 26764 MBYRL issued in 2013 ,it was submitted that the respondent trespassed into the premises by constructing a fence , in that case the applicant claim for temporary injuction in contention that the building of fence trespass by respondent will bring about irreparable loss to the applicant .Hence the court granted applicants prayers the the first respondent his agent or any person acting on behalf is restrained from developing any part on farm no 1072 .

Similar to the facts relevant in the case of METL MOTORS V CHINA DONGFENG MOTOR INDUSTRY ,where the condition of placing order injuction was satisfied as continued breach of terms of the same contract between parties would render the applicant to occasion an irreparable loss to the applicant who was given exclusivity rights in the contract .

The applicable case laws, which support the written submission of the case of METL MOTOR LIMITED (Applicant)VS CHINA DONGFENG MOTOR INDUSTRY IMPORTAND EXPORT CO LIMITED. (Respondent)

**My Lord ,**

I referred in the case of **Ramla Aziz Msuya VS Equity Bank (Tanzania)limited, Cops Auction Mart &Court Brokers limited and Cross Investment limited;** In thus case lordship Judge George C.J,remarked in it is decision in the case of **ATILIO VS MBOWE** which delivered in 1969 at pages 284 ,and that case stated that, For the court to issue for an order of temporary injunction through the following ground;

1. There must be a serious questions to be tried by the court and a probability that the plaintiff will be entitled to the relief prayed for (in the main suit).
2. That the temporary injunction sought is necessary in order to prevent some irreparable injury be falling the plaintiff while the main case is still pending and

That,on the balance grater hardship and mischief is likely to be suffered by the plaintiff if temporary injunction is withheld than may be suffered by defendants if the order is granted.

So, In the matter between the METL MOTORS V CHINA DONGFENG MOTOR INDUSTRY, the applicant prayed a injunction in order to prevent some irreparable injury to the plaintiff to prayed temporary injunction before the order granted.

Also, in a case of Registered Trustees of Archiodeces of Dar es Salaam V the Chairman Bunju Village Government & others Civil no 147 of 2006 “In thus case, the Court held that “an affidavit is evidence in the absence of the reasons pegged in the affidavit, there is no Material evidence upon which court can determine on Merit the application before it. It goes without saying that the three conditions for temporary injunction must be cumulative reflected in the affidavit in support of the application.

But in the court of Appeal, It held that, “now in view of the above position of the law, the affidavit in support of the application as whether,

1. It reflects the three condition of temporary injunction
2. Whether the submission explained the condition