**Hirji v Alibhai**

**Division:** High Court of Tanzania at Dar Es Salaam

**Date of judgment:** 7 February 1974

**Case Number:** 18/1972 (102/74)

**Before:** Onyiuke J

**Sourced by:** LawAfrica

*[1] Civil Practice and Procedure – Pleading – Amendment – Plaint showing no cause of action –*

*Should not be struck out if amendment showing cause of action can be made – Civil Procedure Code, O.*

7, *r.* 11 (*T*).

*[2] Contract – Court broker – Claim against judgment creditor for charges – Claim in contract not*

*ousted by provision in Rules of Court for collection of charges.*

**Editor’s Summary**

The appellant, a court broker, was instructed by a court to attach property at the instance of a judgment-creditor, the respondent. The appellant claimed his charges from the respondent who contended that no cause of action was shown, as the charges could only be collected from the judgment-creditor by the court and that the broker had not complied with his statutory duty to forward to the court an inventory of value on which the fees are calculated. On appeal

**Held –**

(i) a court broker has a right to sue for his fees notwithstanding the provisions for their collection by

the court;

( ii) the court broker has to estimate the value of the property for his fees to be calculated;

(iii) the appellant should have been allowed to amend his plaint to show a cause of action.

Appeal allowed.

**No cases referred to in judgment**