

IN THE COURT OF APPEAL OF TANZANIA

AT DODOMA

(CORAM: NYALALI, C.J., MUSTAFA, J.A., and KISANGA, J.A.)

CIVIL APPEAL NO. 22 OF 1983

B E T W E E N

MSWALI BAGHALU & 2 OTHERS APPELLANTS

a n d

BAYU IHIKIRESPONDENT

(Appeal from the judgment of the
High Court of Tanzania at DODOMA)
(Hon. B.D.CHIPETA, J.) Dated the
3th day of January, 1978,

in

Civil Appeal No. 37 of 1979

JUDGMENT OF THE COURT

MUSTAFA, J. A.,

The appellants have appeared in person. Mswali stated that they had notified their advocate who had stated that he was busy elsewhere and would attend when he had completed his business.

However, on going through the record we discovered that although a notice of motion was allegedly filed in the Registry sometime in May, 1980, no leave was granted to the appellants to appeal to this Court. This was a second appeal, an appeal from a judgment emanating from a District Court at Singida. In terms of Section 4(1)(c) of the Appellate jurisdiction Act such an appeal only lies with leave of the High Court or the Court of Appeal. And in terms of Rule 44 of the Tanzania Court of Appeal Rules, whenever an application may be made to either the High Court or the Court of Appeal. Such application shall first be made to the High Court.

In our view, in the absence of leave to appeal being granted, no appeal lies and it is hereby rejected. We make no order as to costs.

DATED at DODOMA this 22nd day of March, 1985.

(F. L. NYALALI)
CHIEF JUSTICE

(A. MUSTAFA)
JUSTICE OF APPEAL

(R. H. KISANGA)
JUSTICE OF APPEAL

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

(~~A~~ S. MSHOTI)
SENIOR DEPUTY REGISTRAR