

IN THE COURT OF APPEAL OF TANZANIA

AT DAR ES SALAAM

(CORAM: MAKAME, J.A., KISANGA, J.A., And RAMADHANI, J.A.)

CIVIL APPLICATION NO. 18 OF 1993
In the Matter of an Intended Appeal

BETWEEN

TRANSPORT EQUIPMENT LTD. APPLICANT

AND

DEVRAM P. VALAMBHIA RESPONDENT

(Application for the review of the decision
in Civil Reference No. 7 of 1992 of the
Court of Appeal of Tanzania at D'Salaam)

(Makame, Kisanga, And Ramadhani, JJJA)

dated the 12th day of February, 1993

in

Civ. Ref. No. 7 of 1992

RULING OF THE COURT

RAMADHANI, J.A.:

The applicant, Transport Equipment Ltd., being represented by Mr. Mbuya, learned Counsel, has come back to us with a prayer that we review our previous decision in Civil Reference No. 7 of 1992 between the same two parties as in this application.

A preliminary objection was raised by the respondent, Devram P. Valambhia, through his learned advocates, Messrs Maira and Marando. They argued that this Court does not have powers of review under the Appellate Jurisdiction Act, 1979 as asked for by the applicant. Mr. Mbuya conceded that but added that this Court could do so under its inherent jurisdiction. He cited our decision in Felix Bwogi t/a Erling Promotions & Services v. Registrar of Buildings. Civil Application No. 26 of 1988 as

authority for his submission that this Court has inherent jurisdiction. Mr. Maira was quick to respond that there is another decision by this very Court saying that we do not have inherent jurisdiction. That was in Mais Kula and Another v. R. Criminal Appeal No. 121 of 1991.

Upon examining these two authorities it is abundantly obvious to us that there are two diametrically opposite decisions on whether or not this Court has inherent jurisdiction.

The Eastern African Court of Appeal in Pole v. R. [1967] E.A. 62 said:

"a full Court of Appeal has no greater powers than a division of the Court; but if it is to be contended that there are grounds, upon which the Court could act, for departing from a previous decision of the Court, it is obviously desirable that the matter should, if practicable, be considered by a bench of judges"

Here it is even more "obviously desirable" to have a full bench of the Court to resolve the two conflicting opinions.

So we send the matter to the Honourable Chief Justice with a recommendation that a full bench be constituted to deal with the preliminary objection.

DATED at DAR ES SALAAM this 11th day of March, 1994.

L. M. MAKAME
JUSTICE OF APPEAL

R. H. KISANJA
JUSTICE OF APPEAL

A. S. J. RAMADILANI
JUSTICE OF APPEAL

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