

IN THE COURT OF APPEAL OF TANZANIA

AT DAR ES SALAAM

CIVIL APPLICATION NO. 145 OF 2009

C.R.J.E APPLICANT

VERSUS

CHAMA JUMA RESPONDENT

(Application for Extension of time to serve a Notice of

**Appeal to the Respondent, from the Judgment/
Decree/Order/Finding/Decision of the**

High Court of Tanzania

at Dar es salaam)

(Masengi, J)

Dated the 1st day of December, 2009

In

Civil Appeal No. 57 of 2009

RULING

KALEGEYA, J.A.:

The Applicant represented by Ms. Butamo, learned counsel, prays for an order extending time within which to serve a Notice of Appeal to the Respondent. The application was by way of a Notice Motion filed under Rule 8 of the Tanzania Court of Appeal Rules, 1979, now repealed and replaced by Rule 10 of Tanzania Court of Appeal Rules, 2009. The Application is supported by an affidavit of the very counsel.

The reason given for failure to effect the requisite service, contained in paragraphs 4 and 5 of the supporting affidavit and amplified in the

counsel's submissions is that the Respondent's whereabouts were unknown. It is now submitted that he (Respondent) has surfaced as he has been seen in the corridors of the High Court making a follow up of another application between same parties for leave to appeal.

In terms of Rule 8 (then) and Rule 10 (now) the court can extend time limited by the Rules if the applicant shows good cause for having failed to act in time. Here, the Notice of appeal was filed on 4th Dec. 2009 and the same was supposed to have been served on Respondent within 7 days, that is, by 11th December, 2009. The Applicant is thus deplorably out of time. However, on the basis of the unchallenged reasons fronted, I am satisfied that indeed it is a good cause envisaged under the Rules.

For reasons stated, the application is allowed. Time within which to serve the Respondent with a Notice of Appeal is hereby extended for 14 days from today.

DATED at DAR ES SALAAM this 18th day of August, 2010.

L.B. KALEGEYA
JUSTICE OF APPEAL

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

M.A. MALEWO
DEPUTY REGISTRAR
COURT OF APPEAL

