

**IN THE COURT OF APPEAL OF TANZANIA
AT TANGA**

CRIMINAL APPLICATION NO. 5 OF 2009

1. AZARIA FURAHA } **APPLICANTS**
2. ELIAS MBARAKA }

Versus

THE REPUBLIC RESPONDENT

**(Application for extension of time to file review from the
Judgment of the Court of Appeal of Tanzania
at Tanga)**

(Makame, J.A., Munuo., J.A And Kaji J.A.,)

**Dated the 5th day of July, 2006
In
Criminal Appeal no. 109 of 2004**

.....

RULING

12 March, 2010

KIMARO, J.A:

On 5th July, 2006, this Court sustained a conviction on the offence of robbery with violence contrary to sections 285 and 286 of the Penal Code. It also enhanced the sentence to a term of thirty years imprisonment. The applicants are now before the Court with an application for extension of time to file a review against the judgment. The main reason given in their joint accompanying affidavit is that they were not satisfied with the

judgment and because they were in prison they could not file the application in time.

As the application was called on for the hearing, they appeared in person and they reiterated the reasons given in their affidavit. Mr. Tumaini Kweka, learned State Attorney who appeared for the respondent/Republic opposed the application for two reasons; One the affidavit is defective in two respect; it is not verified and it does not comply with the format for swearing an affidavit as provided for under the Oath and Statutory Declaration Act, Cap 34 R.E 2002. Two, given the condition which govern the filing of an application for review, the applicants have totally failed to show that they have reasons for filing the application.

Admittedly, the joint affidavit filed by the applicants is defective. It is neither verified nor sworn as per the format given in CAP 34. The Court can therefore not act on it. See the case of **Salima Vuai Fom Versus Registrar of Co-operative Societies and Three Others** [1995] T.L.R. 75 which was referred to by the learned State Attorney.

Apart from the defect in the affidavit, I will also agree with the learned State Attorney that in terms of Rule 10 of the Court of Appeal

sufficient reason for granting the application.

In the case of **Royal Insurance Tanzania Ltd Versus Kwengwa Strand Hotel Limited** Civil Application No. 111 of 2009 the Court said one of the reasons which the applicant must satisfy in an application for extension of time is to show that what the applicant intends to challenge, has a likelihood for success.

The conditions for review are given in Rule 66 of the Court Rules, 2009. The applicants have not shown what is wrong with the judgment of this Court which they want to challenge by way of a review.

Given the shortfalls, the application is dismissed.

DATED at TANGA this 12th day of March, 2010

N. P. KIMARO
JUSTICE OF APPEAL

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




(N. N. CHUSI)
DEPUTY REGISTRAR