

**IN THE COURT OF APPEAL OF TANZANIA
AT DAR ES SALAAM**

(CORAM: RAMADHANI, C.J., MUNUO, J.A., MSOFFE, J.A., KIMARO, J.A., MBAROUK, J.A., LUANDA, J.A. And MJASIRI, J.A.

CIVIL APPEAL NO. 45 OF 2009

**THE HONOURABLE ATTORNEY GENERAL..... APPELLANT
VERSUS
REVEREND CHRISTOPHER MTIKILA.....RESPONDENT**

**(Appeal from the Judgment of the High Court of Tanzania
at Dar es salaam)**

(Manento, PJ., Massati, J And Mihayo, J.)

dated the 5th day of May, 2006

in

Misc. Civil Cause No. 10 of 2005

ORDER OF THE COURT

8 February, 2010

RAMADHANI, C.J.:

When the matter came up for a hearing Mr. George Masaju, learned Deputy Attorney General for the appellant/United Republic of Tanzania, asked for an adjournment of the hearing for some four months on two grounds.

One, the appellant served on the respondent its list of authorities on Friday 5th inst, and the respondents reciprocated the next day, on Saturday, 6th inst. The appellant has not had time to go through the authorities so as to be of assistance to the Court.

Two, Mr. Masaju pointed out that Mr. Matthew Mwaimu, learned Principal State Attorney, single handedly took charge of the proceedings in the High Court, and, therefore, is a very crucial Attorney for the appellant in this appeal. However, he has had a misfortune of having a seriously sick father over the week – end. Mr. Masaju argued that Mr. Mwaimu would not be in a position to concentrate in the proceedings.

Mr. Richard Rweyongeza, learned advocate for the respondents, assisted by Mr. Mpale Mpoki, learned counsel, did not object to an adjournment, but was of the opinion that four months is a long time.

We must point out that we are burdened at heart by the first ground. The appellant, it was, who started taking an essential step very late and then uses that as an excuse for an adjournment. As for the second ground we have only heard the statement from the bar that Mr. Mwaimu's father is of bad health. We are prepared, nevertheless, to take judicial notice that such a Senior Attorney will not put forward that serious cause for the sake of obtaining an adjournment.

We are prepared to grant an adjournment, but for two months only, that is, the hearing is to be on Thursday 8th April, 2010, and if need be to proceed to Friday 9th April.

However, for the avoidance of doubt we wish to refresh the memories of the learned Deputy Attorney General and his team that an appeal does not operate an automatic stay. So the law as it is at the moment and onward to the General Elections in October, is what the High Court has decided, that is, independent candidates are allowed.

Secondly, we would advise the appellant to have another Attorney to study the matter and not to rely on Mr. Mwaimu who is a mortal being.

Thirdly, both parties to avail each other and the Court copies of the decisions or transcripts of other authorities relied upon so as to serve time and expedite preparations.

So, the appeal is adjourned as already said to 8th April. Costs to follow event.

It is so ordered.

DATED at DAR ES SALAAM this 8th day of February, 2010.

A. S. L. RAMADHANI
CHIEF JUSTICE

E. N. MUNUO
JUSTICE OF APPEAL

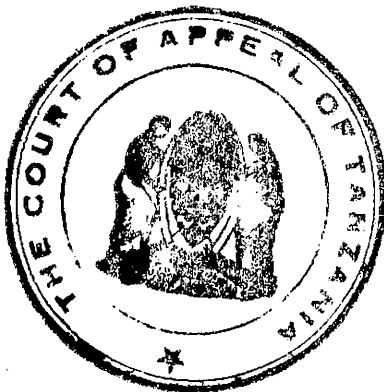
H. R. MSOFFE
JUSTICE OF APPEAL

N. P. KIMARO
JUSTICE OF APPEAL

M. S. MBAROUK
JUSTICE OF APPEAL

B. M. LUANDA
JUSTICE OF APPEAL

S. MJASIRI
JUSTICE OF APPEAL



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


J. S. Mgetta
DEPUTY REGISTRAR