

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

CRIMINAL APPLICATION NO. 9 OF 2009

FADHILI MSEMOM..... APPLICANT

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 6th day of July, 2006

In

Criminal Appeal No. 78 of 2005

RULING

12 & 15 March, 2010

MSOFFE, J.A:

By a notice of motion lodged on 2/7/2009 the applicant is moving the Court to grant him an extension of time to file an application for review of the decision of this Court in Criminal Appeal No. 78 of 2005 which was delivered on 6/7/2006.

It is evident from the averment under paragraph 4 of the affidavit in support of the application that the applicant was not satisfied with the aforesaid decision and hence intends to challenge it by way of a review. In other words, if this application is granted, he intends to challenge the merits of the decision. With respect, as my brother Mandia, J.A. pointed out, correctly in my view, in **Miraji Seif versus Republic**, Criminal Application No. 2 of 2009 (unreported) it is trite law that review is not geared at challenging the merits of a decision of a Court. A review is intended to address irregularities of a decision. I may add two other things. **One**, a review is not an appeal. In other words, it is not "**a second bite**", so to speak. **Two**, with the coming into operation on 1/2/2010 of the **Tanzania Court of Appeal Rules, 2009**, Rule 66 (1) thereof has now set out clearly the grounds for review. It follows that an intended applicant must bear in mind the above grounds before processing an application for review. An intended applicant should also know that under **sub-rule 3** thereof an application for review must be filed within sixty days from the date of the judgment or the order sought to be reviewed.

In the present application there is not intimation anywhere that if the application is granted the applicant intends to raise any of the grounds stipulated under **Rule 66 (1)**.

As already observed, the judgment subject of the intended review was given on 6/7/2006 and this application was lodged on 2/7/2009. Under paragraph 4 of the affidavit the applicant is blaming the prison authorities for this delay of almost three years before filing the application. In the absence of an affidavit from the prison authorities to confirm this allegation it follows that the said allegation remains unsubstantiated.

The material on record does not show that there is sufficient reason upon which the application for extension of time can be granted. The application is accordingly dismissed.

DATED at TANGA this 13th day of March, 2010.

J. H. MSOFFE
JUSTICE OF APPEAL

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




(N. N. CHUSI)
DEPUTY REGISTRAR