

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

(CORAM: RUTAKANGWA, J.A., LUANDA, J.A., And MJASIRI, J.A.)

IR. CRIMINAL APPLICATION NO. 2 OF 2012

CHALAMANDA KAUTEME.....APPLICANT

VERSUS

THE REPUBLIC..... RESPONDENT

**(Application for Review from the judgment of the Court of Appeal of
Tanzania at Iringa)**

(Mbarouk, Massati, Oriyo, JJJ.A.)

**Dated 19th day of March, 2012
in
Criminal Appeal No. 295 of 2009
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RULING OF THE COURT

2nd & 5th August, 2013

LUANDA, J.A.:

With the coming into force of the new Court of Appeal Rules, 2009 on 1/2/2010 vide GN 36 of 29/01/2010 grounds upon which one may wish the Court to review its decision are contained under Rule 66 (1) of the said Rules. Rule 66 (1) of the Court of Appeal Rules, 2009 (the Rules) reads:-

*"66-(1) The Court may review its judgment or
order, but no application for review shall be
entertained except on the following grounds-*

- (a) the decision was based on a manifest error on the face of the record resulting in the miscarriage of justice; or*
- (b) a party was wrongly deprived of an opportunity to be heard; or*
- (c) the court's decision is a nullity; or*
- (d) the court had no jurisdiction to entertain the case; or*
- (e) the judgment was procured illegally, or by fraud or perjury.*

It is clear that the above grounds are the only grounds upon which one may make an application for a review. The other grounds are not covered.

The applicant through Mr. Rwezaula Kaijage, learned counsel has come to this Court for review of our judgment dated on 19/3/2012 on the ground that the Court:-

"overlooked in law all aspects which benefited the applicant to win the appeal."

of identification. We have checked the judgment, we found out that the Court considered the issue of identification and was satisfied that the conditions were favourable for the proper visual identification. To reconsider the issue of identification again would tantamount to sit on appeal against our own judgment. We have already finished the job; we are **functus officio**. In any case the ground raised does not fall within the five grounds enumerated under Rule 66 (1) of the Rules.

We agree with Mr. Maurice Mwamwenda, learned Senior State Attorney that the application is misconceived. The same is dismissed.

DATED at IRINGA this 2nd day of August, 2013.

E. M. K. RUTAKANGWA
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.



M. A. MALEWO
DEPUTY REGISTRAR
COURT OF APPEAL