

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

CIVIL APPLICATION NO. 5 OF 2014

SAIDI IBRAHIM (Legal Personal
Representative of Ibrahim Ramadhan).....**APPLICANT**
VERSUS
MELEMBUKI KITASHO..... **RESPONDENT**

**(Application for extend time to file application for Revision of
decision of the High Court of Tanzania
at Arusha)**

(Msoffe, J.)

**Dated 10th day of November, 2000
in
Civil Case No. 169 of 1997**

RULING

16th & 23rd October, 2014.

LUANDA, J.A.:

When the application for extension of time to enable the applicant file revisional proceedings was called on for hearing, the Court wished first to know whether SADI IBRAHIM a legal representative of the late IBRAHIM RAMADHANI had applied for and was allowed to be joined as a party in these proceedings in place of the deceased. I did so because the Court had been making several orders to SADI IBRAHIM to make

such application to this Court but to no avail. I wish to point out that to be appointed as an administrator of the deceased estate is not enough to enable such person to represent the deceased in this Court. The administrator must make a formal application in this Court so that he is made a party to the proceedings in place of the deceased as is provided under Rule 57 (3) of the Court of Appeal Rules, 2009. The Rule reads:-

*"57 (3) A civil application shall not abate on the death of the applicant or the respondent but the Court shall, **on the application of any interested person, course the legal representative of the deceased to be made a part in place of the deceased.**"*

[Emphasis supplied].

Since the purported applicant is yet to make such application, in law he cannot be taken to represent the deceased. In legal parlance, he has no *locus standi*.

Fortunately this time the applicant was represented by Ms. Christina Kimale learned counsel who readily conceded to the anomaly and said the purported application is incompetent and rightly so. She prayed the same be struck out.

On the other hand Mr. Nelson Merinyo learned advocate for the respondent also joined hands with the Court's observation.

In view of the foregoing therefore, the purported application is hereby struck out with no order as to costs.

It is so ordered.

DATED at **ARUSHA** this 20th day of October, 2014.

B. M. LUANDA
JUSTICE OF APPEAL

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


F. J. KABWE
DEPUTY REGISTRAR
COURT OF APPEAL