

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

(CORAM: OTHMAN, C.J., KIMARO, J.A. And MUSSA, J.A.)

CIVIL APPEAL NO. 05 OF 2014

BETWEEN

KIJAKAZI AME HAJIAPPELLANT

VERSUS

MEMBERS CULTURE MUICAL CLUB ZANZIBARRESPONDENT

**(Appeal from the ruling of the High Court of Zanzibar
at Vuga)**

(Abdulhakim A. Issa , J.)

dated 3rd day of October, 2012

in

Civil Case No. 19 of 2012

RULING OF THE COURT

7TH December, 2015

OTHMAN, C.J.:

Before us is a notice of preliminary objection instituted by Mr. Salim Mnkonge, learned advocate for the respondent that the Court has no jurisdiction to entertain the applicant's application for stay of execution lodged under Rule 11(2)(b)(c) of the Court of Appeal Rules, 2009, in the absence of a notice of appeal.

Mr. Ussi Khamis Haji, learned Advocate for the applicant readily conceded to the objection.

In our considered view, there is merit in the preliminary objection. Under Rule 11(2)(b) of the Court of Appeal Rules, 2009 a notice of appeal is a prerequisite for the determination of an application for stay of execution in the Court.

We would accordingly, uphold the preliminary objection, with no order as to costs, as Mr. Mnkonje was generous not to press for the same. In the result, the application is hereby struck out. Ordered accordingly.

DATED at ZANZIBAR this day of 7th December, 2015.

M. C. OTHMAN
CHIEF JUSTICE

N. P. KIMARO
JUSTICE OF APPEAL

K. M. MUSSA
JUSTICE OF APPEAL

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

J. R. KAHYOZA
REGISTRAR
COURT OF APPEAL