

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

**MISC. CIVIL APPLICATION NO.280 OF 2002  
(From Original High Court Civil Case No.4/1997  
(Mtwara District Registry))**

**KILUNDA OMARY.....APPLICANT**

**VERSUS**

**ATTORNEY GENERAL AND 5 OTHERS.....RESPONDENTS**

**RULING**

**MANENTO, JK:**

The application before me is to transfer the Mtwara Civil Case No.4/1997 to this court. That application is accompanied by an affidavit of the applicant. That affidavit's jurat is defective as it does not show the place and date where the applicant was affirmed. Mr. Chidou, learned state Attorney raised that preliminary point of law. The applicant wants the application to be adjourned to another date, so that he can reply, after consulting his legal advisers.

I have looked at the affidavit of the applicant. It is clearly seen that its jurat does not show where he was sworn and the date it was sworn. Those omissions are in contravention of section 8 of Cap. 12 of the Laws (Notaries Public and Commissioners for Oaths). To entertain further adjournment is to entertain further illegality and delay of the determination of the application. A fact is a fact, the fact that the jurat of the affidavit of the applicant is defective cannot be cured in any way.

Besides that, the reason for transferring the Mtwara case is now overtaken by events. The applicant had almost bed rest for 9 months when he made this application in September 2002. Now, three years have passed. So he is no longer

incapacitated from going to Mtwara, where his case is filed. Besides that, the applicant has been staying at Masasi, being attended by herbalists, so that, that act defeats the purpose of having the case transfers to Dar es Salaam.

For the first reason of the jurat of the affidavit, the application is not properly supported by any affidavit and it is accordingly dismissed. The trial of the civil case at Mtwara High Court, Civil Case No.4/1997 should proceed to be heard and determined at Mtwara High Court. It is so ordered.

**A.R. Manento**  
**JAJI KIONGOZI.**  
**1/11/2005**